



Department for International Trade

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Lord Boswell of Aynho
Chairman of the European Union Committee
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26 January 2017

Dear Tim,

14249/16 Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union

I am writing in response to your letter of 12 January, seeking further information on the EU Commission's proposal to amend regulations covering protection against dumped and subsidised imports from countries not members of the EU.

First, let me state that I am sorry the Committee was disappointed with the Government's Explanatory Memorandum (EM). The Government tried to provide a clear and concise breakdown of the Commission's proposal with the information available.

Turning to the questions in your letter, the proposal on which the EM was based is the Commission's proposed approach to dealing with market economy status for China. The UK Government does not expect the Commission to announce any additional measures. The proposal aims to amend the EU's anti-dumping and anti-subsidy methodology by removing the current reference to the treatment of non-market economies, replacing it with a methodology that would, on case by case basis, look at whether price and cost distortions exist in a particular country and sector, and, where necessary, ensure that dumping margins reflect these distortions.

As stated in the EM, while this new proposal will not grant MES to any country, in the Commission's view it will meet the EU's legal obligations in relation to China and other WTO members. The proposal would see the EU adopt a system similar to the US and Canada.

As you may be aware, China has initiated formal WTO dispute cases against the EU and US, submitting requests for consultations on 12 December 2016. The requests are based on the EU and US continuing with their current regulations beyond the 11 December WTO deadline at which point the changes to China's accession protocols took effect. However, China's request has also left open an option to challenge the EU's new proposal.

The Government is not in a position to pre-judge the results of any consultations between the EU and China, or the findings of any future WTO dispute panel, should China wish to take forward a formal dispute case following consultations. The Government has stated clearly that it wishes for a proposal that meets the EU's WTO commitments but continues to provide effective protection against unfair trade. When the UK leaves the EU we are committed to creating a trade remedy framework which is able to react efficiently and effectively to incidents of unfair trade in a proportionate way. Any framework the UK adopts will need to meet the requirements set out by the WTO.

You have asked about the timing of a UK impact assessment on the EU's proposal. The usual process is for the Government to produce its own impact assessment after a final proposal has been agreed by the EU Council and European Parliament. You also suggest the UK Government has expressed reservations over the EU's impact assessment. I am unaware of any such views being given by myself, or my Ministerial colleagues. As noted in the EM, we are still working through the full implications, and the proposal is currently subject to technical discussions between the EU Commission and Member States at official level.

Finally, you have sought clarification about what approach the EU will take to trade defence cases prior to reaching an agreement to amend its anti-dumping and anti-subsidy regulations. Until such an agreement is reached, the EU has no choice but to carry out trade defence investigations based on its current rules. I have already mentioned that China has challenged these rules at the WTO, and it may be the case that the EU faces additional challenges over the results of new trade defence measures imposed on Chinese goods between now and the implementation of new, WTO-compliant regulations.

I am copying this response to Sir William Cash, Chair of the House of Commons European Scrutiny Committee, the Clerk of the European Scrutiny Committee, Les Saunders at the Cabinet Office and Edwina Osborne, EU Parliamentary Scrutiny, Department for International Trade.



THE LORD PRICE CVO
Minister of State for Trade Policy,
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