



Brussels, 29 November 2016

Dear Ambassador Javorčik,
Dear Mr Lančarič,

With regard to the proposal for the Modernisation of Trade Defence Instruments (MTDI) currently being discussed within the Council, AEGIS Europe, which represents nearly 30 manufacturing sectors including steel, aluminum, ceramics, paper, solar panels, bicycles, fertilizers, etc., would like to restate its **support for the initiative not to apply the Lesser Duty Rule (LDR) in certain situations**, considering that LDR is an unnecessary restriction the EU has imposed onto itself with no such obligation under the WTO Anti-Dumping Agreement, which could consequently be suppressed in all circumstances.

However, in light of the recent compromise proposals put forward by the Slovak Presidency, AEGIS Europe would like to share with you the following:

While we appreciated the Commission's attempt to promote a targeted non-application of the LDR in case of raw material distortions or overcapacity (European Commission Communication '[Towards a robust trade policy for the EU in the interest of jobs and growth](#)', 18 October 2016), we note that the concept of overcapacity has been removed from the latest compromise proposals. In our view, overcapacities are a clear signal of dangerous distortions which must not be rewarded. In those circumstances therefore, the LDR must not be applied.

In addition :

- The definition of raw material distortions must not be limited to a list of specific practices but should be open-ended to allow consideration of whatever is causing the distortions. Practice has shown that obstacles to trade can vary according to countries, sectors etc. Keeping the list open-ended is essential to ensure adequate measures in the face of all types of distortions.
- The existence of significant distortions or overcapacities should suffice in itself to justify the non-application of the LDR, and there must not be any additional proof burden in relation to a specific link between the distortions and price levels.
- There should be no threshold that individual raw materials must meet as a percentage of costs of production, because such a quantitative condition risks excluding automatically some critical raw materials and making the provision largely irrelevant for many economic sectors.

Without additional efforts towards more robustness and legal certainty, it is highly unlikely that the proposed approach on LDR removal would meaningfully deliver for the majority of EU industries affected by Chinese dumping today and in future.



We therefore urge you to take our concerns into account to ensure that the outcome of such a long negotiating process is efficient for industry as a whole.

We remain at your disposal should you have any additional question.

With kind regards,

Inès Van Lierde
Chair of AEGIS Europe

AEGIS EUROPE

AEGIS Europe is a grouping of nearly 30 industrial associations dedicated to ensuring that EU policymakers work towards free and fair international trade. AEGIS members are leaders in sustainable manufacturing and account for more than €500 billion in annual turnover and millions of jobs across the EU.

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