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ANTI-DUMPING PROCEEDINGS IN METALLURGICAL BRAND

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Dumping can be generally defined as an unfair trade practice, in which a manufacturer sells identical products or very similar products in the foreign market at price that is lower than their normal value in the domestic market. Metallurgical materials and products are among those products which the anti-dumping duty is often imposed on. The market with metallurgical products and the methodology used for calculating the dumping range have certain specific features related to the decisions on possible dumping and its amount, as presented in the article.

Key words: metallurgical production, Dumping, Anti-dumping proceedings

INTRODUCTION

World economies are looking for ways to stabilize their performance and ensure continuous economic growth. [1] In today's globalized market economy, business companies are active both in domestic and in foreign markets, thus increasing the importance of observing the international rules providing guidelines for mutual trade among countries within the global trading system. All countries should be able to protect themselves against unfair trading, but this protection must be performed in a clear and transparent legal framework. The utilization of the trade protection instruments, which may include the anti-dumping measures, is legitimate and if this tool is properly applied, it ensures that companies can trade on fair terms and compete on the basis of their comparative advantages. In the application of the trade protection, the Czech Republic, as part of the EU and the WTO, follows the Regulation No. 1225/2009 of 30 November 2009 of the European Community Council on protection against dumped imports from countries which are not members of the European Community. [2]

ANTI-DUMPING PROCEEDINGS

Dumping can be generally defined as an unfair trade practice, in which the manufacturer sells similar products in the foreign market at a price that is lower than their normal value in the domestic market. The anti-dumping proceedings are always taken against a country exporting a dumped product, not only against a concrete manufacturer exporting this dumped product.

However, the specific measures – the amount of dumping duty - are always determined separately for the individual producer in the given country at the individual level, depending on the calculated dumping range and according to the degree of cooperation. The accused party does not have to take part in the proceedings and may refuse to cooperate, but in the case of non-cooperation, the commission of inquiry considers the information presented in the complaint to be credible and proven, and there is a real danger that the commission of inquiry will obtain the required information only from the plaintiff and will accept it as the only authoritative information. The amount of the determined anti-dumping duty is then set at the maximum amount according to the documents provided by the plaintiff.

The anti-dumping duty is imposed on a dumped product, thus increasing the cost of its purchase for the customer. The originator of dumping – the manufacturer exporting its products at dumped prices – is not punished directly, but the purchase of its products may become disadvantageous for foreign customers as a result of the anti-dumping duty and the manufacturer is losing customers. The anti-dumping measures are usually imposed for a period of five years with the possibility of extension for another five-year period, based on a review inquiry.

To initiate an anti-dumping inquiry against a concrete manufacturer and to impose anti-dumping measures, it is primarily necessary to prove that [2]:

- dumping exists, i.e. the manufacturer sells the same products in a foreign market at a price lower than in the domestic market, i.e. the company exports a product from one country to another at a price lower than its current value.
- this artificially low price of the product causes harm to the entire branch in the country of the customer, i.e. the relevant economic indicators in the sectors are worse, for example, the market share of

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domestic producers is lower, as well as the profits of domestic producers and the labour productivity, or the utilization of production capacities has decreased.

- there is a causal link between the difficulties of the given branch and these supplies, i.e. such difficulties are not caused, for example, by a decrease of demand or a change in the structure of trade. [3]
- the imposition of anti-dumping measures is in the public interest of the whole EU, which means that both the interests of the accusing producers in the EU and the users in the EU are evaluated.

As already mentioned before, if we succeed in proving dumping, the importing country (in our case the whole EU) may adopt anti-dumping measures in the form of penalization import duties - anti-dumping duties, which compensate the difference between the export price and the current value of the product in the domestic market. The difference between the higher price in the domestic market, the so-called current value of the product, and the export price represents the dumping range which the level of the anti-dumping duty is derived from. The methodology used to determine the current value of the product is one of the most difficult parts of the anti-dumping proceedings. If the evaluation committee finds the current value of the product, i.e. the price in the domestic market, is difficult to determine reliably, it performs its own calculation based on very complicated economic calculations.

EXPERIMENTAL PART

Specific problems of the calculation of current value in metallurgy

The market with metallurgical products is characterized by some specific features when the decision about possible dumping and its amount are taken into consideration. Final metallurgical products represent a wide range of goods, defined by their shape (flat products, profiles, tubes), size, quality of steel, heat treatment, or specific requirements of customers (exact length, surface protection, packaging, etc.) Most of these attributes are respected in concrete price of the products invoiced to the customer.

When calculating the dumping range, which is based on the difference of domestic sales prices (in the country of the producer) and export sales, it is almost impossible to compare the sales of identical products (shape, size, quality, customer requirements) and the comparison is performed for a group of products, which may somehow distort the results. However, this distortion is even more striking when the revenues from domestic sales are compared with producer's prime costs used to determine whether the domestic market sales of the products are not realized with a loss. A metallurgical manufacturer is not able to calculate the cost breakdown of the items from the price lists, these costs are calcu-

lated per product groups with similar shape, size, quality and design. The comparison of the individual domestic invoices with the average production cost per groups of products calculated like that leads to a gross distortion in the evaluation of unprofitable sales.

A dummy model of dumping range calculation of ten products (A-K) is presented to illustrate this point (Table 1). As shown in Table 1, the export price of each product is higher than the domestic price and the domestic price is higher than the actual cost (which is practically impossible to capture by accounting and calculation) – i.e. there is no dumping. However, due to the fact that the only available calculations in a metallurgical enterprise are the calculations for the entire group of products, in the process focused on proving dumping, the prices of specific products are compared with the average cost for the entire group and the current value is calculated only from the profitable domestic sales identified this way. This calculation then shows a dumping range of 18,4 %, and that is the amount that may be subsequently used to impose the dumping duty. The distortion demonstrated on a model here cannot be documented in an exact way.

Table 1 Model of calculation of dumping duty

Product	A	B	C	D	E	F	G	H	I	K	Total
Total amount thousand of t	1	3	2	5	1	8	6	2	5	7	40
Divided into: domestic thousand of t	0,8	1,5	1,6	3	0,2	5	4,5	0,5	3,5	6	26,6
Divided into: export thousand of t	0,2	1,5	0,4	2	0,8	3	1,5	1,5	1,5	1	13,4
Total prime costs EUR/t	400	420	440	400	480	640	720	520	480	600	552,52
Domestic price EUR/t	420	440	460	420	500	660	740	540	500	620	581,3
Export price EUR/t	440	460	480	440	540	680	760	560	520	640	575,1
Total prime costs in thousand of EUR	420	1260	880	2000	500	5120	4320	1040	2400	4200	22100
Domestic price in thousand of EUR	353,6	660	109	1268	121,6	3300	3330	270	1750	3720	15462
Export price in thousand of EUR	82	690	192	880	416	2040	1140	840	780	640	7706
Domestic price - Average costs EUR	-136	-112,5	-92,5	-132	-52,5	101,5	187,5	-12,5	-52,5	67,5	
Volume of profitable sales thousand of t											258,75
% of profitable sales from the value											66,9
% of profitable sales from the quantity											58,3
Current value EUR											667,7
Export price - current value EUR	-227,7	-207,7	-187,7	-227,7	147,7	12,3	92,3	-107,7	-147,2	-27,7	
dumping value EUR	-45,6	-311,6	-82,6	-455,4	-118,2			-161,6	-221,6	-27,7	-1416,7
% of dumping											-18,4

DISCUSSION

Is dumping really a condemnable business practice?

As mentioned before, a company uses dumping if it sells its product in a foreign market at a price which is lower than its current value in the domestic market and that is why an anti-dumping duty is imposed on the dumped product within the scope of the anti-dumping procedures in the interest of fair market competition. However, a dummy model of anti-dumping range calculation (Table 1) has shown that the methodology used for calculating the dumping range is decisive to judge whether dumping has been proven or not.

Although it may look like it is a purely desirable activity ensuring a healthy and undisturbed functioning of the market, this may not always be the case. In fact, it is a rather controversial subject.

Dumping is, according to the documents of the General Agreement on Tariffs and Trade (GATT) [4], condemnable, but not explicitly prohibited commercial practice. Goods are sometimes actually sold at different prices in different places, respectively at prices which do not cover the costs of production. In this context, there are some questions to be answered, such as:

- Is it really necessary to apply sanctions against this business practice?
- Why should this activity be illegalized?
- Isn't the imposition of an anti-dumping duty on a manufacturer a significant interference with free trade, which the World Trade Organization, whose main task is to liberalize international trade through the elimination of trade barriers, has been fighting against?

One of the major arguments supporting the prosecution of dumping says: "Manufacturers practicing dumping use the low price of a product in a foreign market in order to try to significantly affect the market shares of the other producers (either by gaining the entire market or its significant part), which may lead to a position of a monopoly that will then be able to set a higher price than the one before dumping, ultimately causing harm to consumers." This argument shows that the main objective of the anti-dumping proceedings is mainly the protection of consumers. However, based on the previously presented facts, we can say that the result of the anti-dumping proceedings is the increase of the dumped product price in the market to the so-called current product value, which is common in the country of the manufacturer. However, because the additional anti-dumping duty must not be "absorbed" by the producer or exporter (by reducing prices below current value), and the duty is paid by the consumer, not by the dumping manufacturer, it is possible to infer that the imposition of anti-dumping duties clearly protects only the manufacturers in the importing country, not the consumers. That is why the requirement to protect the market comes from those who can benefit from it, i.e. from the importers of competing manufacturers.

On the other hand, we can definitely agree that if low price of imported goods is primarily caused by state interventions in the country of the manufacturer, in the form of subsidies to encourage exporters, tax allowances or low-interest loans, who can provide unbeatably low prices thanks to these state interventions, then the application of the market protection instruments - anti-dumping – is a natural effort of every country to protect its market and its producers against unfair competition from abroad.

In conclusion, each case requires individual approach to assess whether the initiation of anti-dumping proceedings and the imposition of anti-dumping duty on the part of the state can really be considered as a tool ensuring the protection of trading under fair conditions, or whether it is an attempt of a state to protect the domestic producers at all costs from the price competition and at the expense of trade liberalization.

CONCLUSION

Metallurgical materials and products are among the products in case of which anti-dumping duty is often imposed. The European Commission has launched a series of anti-dumping cases on the basis of suggestions from steel associations. As far as the decisions on possible dumping and its amount are concerned, the market with metallurgical products and the methodology used for calculating the dumping range have certain specific features, as stated in the article. And it is just a question, for example a political one, whether the Commission takes this distortion (which is demonstrated on a model in this article) into account during the decision determining the level of sanctions or not.

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Note: The responsible translator for English language is Petr Jaroš (English Language Tutor at the College of Tourism and Foreign Trade, Goodwill - VOŠ, Frýdek-Místek, the Czech Republic)