

THE EUROPEAN UNION'S TRADE DEFENSE INSTRUMENTS¹

Vanja Šušnjar Čanković²

Abstract

According to the World Trade Organization, all its members, including the EU, have the right in some well-defined situations to impose additional duties, or, in some cases, price or quantitative limitations on imported products to prevent damage to their domestic industry. There are three principal trade defense instruments: (1) anti-dumping measures against dumped imports that cause or threaten to cause material injury to the domestic industry, (2) anti-subsidy measures – also known as countervailing duties – against subsidized imports, and (3) safeguard measures against sudden and unforeseen import increases. The official aim of trade defense proceedings is to protect EU producers of competing goods from injury or a threat of injury from imports by temporary protective tariffs on imports. However, the literature suggests that these measures could not only harm European consumers, but also European enterprises. The main objective of this paper is to elaborate on the effectiveness of trade defense instruments addressing unfair practices occurring in international trade. Since the EU trade policy has gone through various stages, some more defensive than others, it will, also, cover a major concern expressed by several authors about the EU's retreat into protectionism in the range of trade-related economic policies.

Key words: protectionism, trade defense, anti-dumping measures, countervailing duties, safeguards

JEL classification: F4, F5

INTRODUCTION

According to the World Trade Organization, all its members, including the EU, have the right in some well-defined situations to impose additional duties, or, in some cases, price or quantitative limitations on imported products to prevent damage to their domestic industry. There are three principal trade defense instruments: (1) anti-dumping measures against dumped

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INSTRUMENTI ZAŠTITE TRGOVINE EVROPSKE UNIJE¹

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Sažetak

Sve članice Svjetske trgovinske organizacije, samim tim i Evropska unija, imaju pravo da, u određenim, jasno definisanim situacijama, nametnu dodatne obaveze, ili, u nekim slučajevima, cjenovna i kvantitativna ograničenja, na uvoz proizvoda kako bi spriječile štetu po domaću industriju. Tri osnovna instrumenta trgovinske zaštite su: (1) antidampinške mjere protiv robe uvezene po dampinškim cijenama koje prouzrokuju ili prijete da prouzrokuju materijalnu štetu domaćoj industriji, (2) antisubvencijske, takođe poznate i kao kompenzatorne mjere, protiv subvencionisanog uvoza, i (3) mjere zaštite od iznenađnog i nepredvidivog prekomjernog uvoza. Zvanični cilj primjene zaštitnih mjera u trgovini, privremenim zaštitnim carinama na uvoz, je zaštita proizvođača konkurentne robe iz EU od povrede ili same prijetnje povredom iz uvoza. Ipak, literatura sugeriše da ove mjere mogu naškoditi ne samo evropskim potrošačima, nego i evropskim preduzećima. Glavni zadatak ovog rada je da obradi efikasnost instrumenata zaštite trgovine usmjerene ka nefer praksama koje se dešavaju u međunarodnoj trgovini. Kako je trgovinska politika EU prošla razne faze, neke više zaštitničke od drugih, rad će, takođe, pokriti i pitanje zabrinutosti pojedinih autora o pribjegavanju Evropske unije protekcionizmu u nizu trgovinom povezanih ekonomskih politika.

Ključne riječi: *protekcijonizam, zaštita trgovine, antidampinške mjere, kompenzatorne mjere, mjere zaštite od prekomjernog uvoza*

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UVOD

Sve članice Svjetske trgovinske organizacije, samim tim i Evropska unija, imaju pravo da, u određenim, jasno definisanim situacijama, nametnu dodatne obaveze, ili, u nekim slučajevima, cjenovna i kvantitativna ograničenja, na uvoz proizvoda kako bi spriječile štetu po domaću industriju. Tri osnovna instrumenta trgovinske zaštite su: (1) antidampinške mjere protiv robe

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imports that cause or threaten to cause material injury to the domestic industry, (2) anti-subsidy measures – also known as countervailing duties – against subsidized imports, and (3) safeguard measures against sudden and unforeseen import increases. The official aim of trade defense proceedings is to protect EU producers of competing goods from injury or a threat of injury from imports by temporary protective tariffs on imports. However, the literature suggests that these measures could not only harm European consumers, but also European enterprises.

THE IMPORTANCE OF TRADE FOR THE EUROPEAN UNION'S ECONOMY

The European Union remains the largest economy in the world with a GDP per head of €25,000. The development of trade is an opportunity for economic growth but also the very core of international relations of the European Union. Making 1/5 of world trade (precisely, together, its 28 members account for 19% of world imports and exports), the European Union represents one of the biggest players on the global trading scene as well as the leading force in the World Trade Organization because it has the weight to shape the entire system of international trade. As the world's largest single market with more than 500 million consumers, the EU is itself the biggest export market for more than 80, if not 100 countries³. By comparison, the USA is the top trading partner for a little over 20 countries.

Chart 1. EU-28 as a trading power⁴

15% of world trade in goods in 2012
Largest importer € 1,792 bn in 2012
First exporter € 1,686 bn in 2012
EU-27 received € 241.7 bn in FDI 2011

Furthermore, the EU has a secure legal investment framework that is amongst the most open in the world, so, consequently, it ranks first in both inbound and outbound international investments. Also, although many authors remind us that the European Union does not have a clear, and certainly not a favorable stance towards developing countries, official statistics do not lie when it reveals that the EU is, in fact, the most open to developing countries. Fuels excluded, the EU imports more from developing countries than the USA, Canada, Japan and China put together. When it comes to the

³ Official statistics vary.

⁴ European Commission, *DG Trade Statistical Pocket Guide*, Publications Office of the European Union, Luxembourg, 2013.

uvezene po dampinškim cijenama koje prouzrokuju ili prijete da prouzrokuju materijalnu štetu domaćoj industriji, (2) antisubvencijske, takođe poznate i kao kompenzatorne mjere, protiv subvencionisanog uvoza, i (3) mjere zaštite od iznenadnog i nepredvidivog prekomjernog uvoza. Zvanični cilj primjene zaštitnih mjera u trgovini, privremenim zaštitnim carinama na uvoz, je zaštita proizvođača konkurentne robe iz EU od povrede ili same prijetnje povredom iz uvoza. Ipak, literatura sugerise da ove mjere mogu naškoditi ne samo evropskim potrošačima, nego i evropskim preduzećima.

ZNAČAJ TRGOVINE ZA EVROPSKU UNIJU

Evropska unija je najveća svjetska privreda sa BDP po glavi stanovnika od 25.000 evra. Razvoj trgovine čini osnovu ekonomskog razvoja, ali i srce međunarodnih odnosa Evropske unije. Čineći 1/5 svjetske trgovine (preciznije, njenih 28 zemalja članica čini 19% svjetskog uvoza i izvoza), Evropska unija predstavlja jednog od najvećih igrača na globalnoj trgovinskoj sceni, ali i vodeću snagu u Svjetskoj trgovinskoj organizaciji, jer ima težinu da oblikuje cjelokupan sistem međunarodne razmjene. Kao najveće svjetsko jedinstveno tržište sa više od 500 miliona potrošača, Evropska unija je ujedno i najveće izvozno tržište za više od 80, ako ne i 100 zemalja³. Poređenja radi, Sjedinjene Američke Države su glavni trgovinski partner sa nešto više od 20 zemalja.

Slika 1. EU-28 kao trgovinska sila⁴

15% svjetske trgovine robom 2012. godine
Najveći uvoznik (1.792 milijardi evra) 2012. godine
Najveći izvoznik (1.686 milijardi evra) 2012. godine
EU-27 primila 241,7 milijardi evra u SDI 2011. godine

Nadalje, EU ima jedan od najotvorenijih investicionih režima u svijetu, te je, samim tim, prva po broju (i ulaznih i izlaznih) međunarodnih ulaganja. Takođe, iako mnogi autori podsjećaju da Evropska unija nema jasan, a pogotovo ne povoljan stav prema zemljama u razvoju, zvanična statistika ne laže kada kaže da je EU, zapravo, najotvorenija za zemlje u razvoju (ne računajući gorivo, EU uvozi više iz zemalja u razvoju nego SAD, Kina, Japan i Kanada zajedno). Kada je u pitanju položaj EU na globalnom tržištu, važno je, još, napomenuti da je Unija najveći svjetski trgovac industrijskim proizvodima i uslugama, da su njena tržišta usluga, takođe, dosta otvorena, te

³ Zvanična statistika se razlikuje.

⁴ European Commission, *DG Trade Statistical Pocket Guide*, Publications Office of the European Union, Luxembourg, 2013.

EU position in global markets, it is also important to mention that the Union is the world's largest trader of manufactured goods and services, her services markets are highly open and the average applied tariff for goods imported into the EU is very low. As a matter of fact, more than 70% of imports enter the EU at zero or reduced tariffs.

BENEFITS OF TRADE

External trade and investment have played a significant role in boosting EU economic growth for many decades. Once current plans are completed, the prediction is that trade policy will add around €150bn to the EU economy. Gains from trade are great. For example, more trade means more economic growth which can help overcome the economic crisis. Trade means more jobs. More than 36 million jobs in Europe depend, directly or indirectly, on EU ability to trade with the rest of the world. Trade also leads to higher salaries and improved living standards. Increased trade offers a great variety of goods, at lower prices, to consumers. The gains for the average consumer are in the range of €600 per year. Trade allows countries to procure the best products and services for its citizens internationally. This means government and local authorities can spend less public money on the products and services they purchase. Furthermore, trade and investment flows spread new ideas and innovation, new technologies and the best research, leading to improvements in the products and services that people use. Trade brings people together. It develops and secures economic ties between nations and contributes to political stability. Trade in the 1950s was one of the initial drivers which helped create the peaceful Europe we have today. Trade and investment boost competition as well as competitiveness. It allows EU businesses to access inputs at the lowest prices, allowing them to compete within Europe and abroad. Trade agreements can make it easier to do business. For example, encouraging the use of international standards for industrial products reduces the costs of doing business and promotes international trade. At last, trade and trade policy reinforce the EU's international influence.

TRADE DEFENSE INSTRUMENTS

The EU common trade policy depends on a number of internal factors, including the common agricultural policy, customs union, free trade areas, the functioning of the single market, competitiveness and special interests of the EU, but also on various external factors, among which WTO provisions, global competition and special contracts and agreements are standing out. A group of the most important instruments that shape the external

da ima jako niske carinske stope. Naime, više od 70% uvoza odvija se po 0 ili sniženim carinskim stopama.

KORISTI OD TRGOVINE

Spoljna trgovina i investicije već decenijama igraju značajnu ulogu u povećanju privrednog rasta EU. Predviđa se da će po realizaciji aktuelnih planova, trgovinska politika dodati 150 milijardi evra privredi EU. Koristi od trgovine su višestruke. Naime, više trgovine podrazumijeva veći ekonomski rast što može pomoći prevazilaženju ekonomske krize. Trgovina znači i više radnih mjesta. Više od 36 miliona radnih mjesta u Evropi, posredno ili neposredno, zavisi od sposobnosti trgovine EU sa ostatkom svijeta. Trgovina, još, dovodi do većih primanja i poboljšanja životnog standarda. Povećana trgovina unapređuje ponudu potrošačima, po znatno nižim cijenama. Dobici prosječnog potrošača su u rasponu od 600 evra godišnje. Nadalje, trgovina omogućava državama da nabave najbolje svjetske proizvode i usluge za svoje građane, odnosno vlada i lokalne vlasti mogu da troše manje javnih finansija za državnu kupovinu. Trgovinski i investicioni tokovi šire nove ideje i inovacije, nove tehnologije i najbolja istraživanja, što dovodi do poboljšanja kvaliteta proizvoda i usluga koje ljudi koriste. Trgovina zbližava ljude. Ona razvija i obezbijeduje ekonomske veze između naroda i doprinosi političkoj stabilnosti. Trgovina 50-ih je predstavljala jedan od početnih pogona koji je pomogao stvaranje mirne Evrope kakvu imamo danas. Trgovina i investicije pojačavaju konkurenciju, ali i konkurentnost. One omogućavaju evropskim preduzećima pristup sirovinama po najnižim cijenama, pružajući im priliku da se takmiče u Evropi i inostranstvu. Trgovinski sporazumi olakšavaju poslovanje. Na primjer, podsticanje korišćenja međunarodnih standarda za industrijske proizvode smanjuje troškove poslovanja i promoviše međunarodnu trgovinu. Konačno, trgovina i trgovinska politika jačaju međunarodni uticaj Evropske unije.

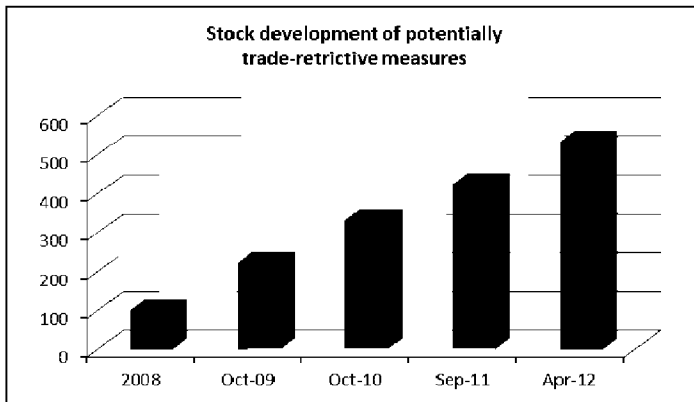
MEHANIZMI ZAŠTITE TRGOVINE

Zajednička spoljnotrgovinska politika Evropske unije zavisi od niza unutrašnjih faktora među kojima su najznačajniji Zajednička poljoprivredna politika, carinske unije, zone slobodne trgovine, funkcionisanje jedinstvenog tržišta, konkurentnost Unije i posebni interesi, ali i od uticaja različitih spoljnih faktora od kojih se ističu odredbe Svjetske trgovinske organizacije, globalna konkurencija, te posebni ugovori i sporazumi. Grupu najznačajnijih instrumenata kojima se oblikuje spoljnotrgovinska politika EU čine oruđa trgovinske politike u koje spadaju carine, dobrovoljno ograničenje izvoza,

trade policy of the EU are the tools of trade policy, which include customs, voluntary export restraints, trade defense mechanisms, rules of origin, technical standards. The second group of instruments consists of trade agreements.

It should be emphasized that trade defense instruments are legally justified if the relevant rules have been respected and should in this case not be considered a protectionist measure as such. Although European countries were among the founding members of the modern international system of trade rules and even though they work on a day to day basis to remove obstacles encountered by exporters, trying to open up new opportunities for European investment and to reduce counterfeiting and piracy of European goods, a number of new trade barriers is still being adopted (stock of potentially trade-restrictive measures adopted since the beginning of the crisis was 534⁵).

Chart 2. Potentially trade-restrictive measures⁶



Anti-dumping

Dumping occurs when manufacturers from a non-EU country sell goods in the EU below the sales prices in their domestic market or below the cost of production. If it is established that this is the case and that exports cause or may cause injury to the industry, temporary tariffs may be imposed. They usually take the form of an ad valorem duty, but could also be specific duties or price undertakings. Measures are generally imposed for 5 years. Exporting producers may offer “undertakings”, i.e. they may agree to sell at a minimum price, which is, in terms of general welfare, a worse solution than import tariffs because there is no collection and payment of budget revenue.

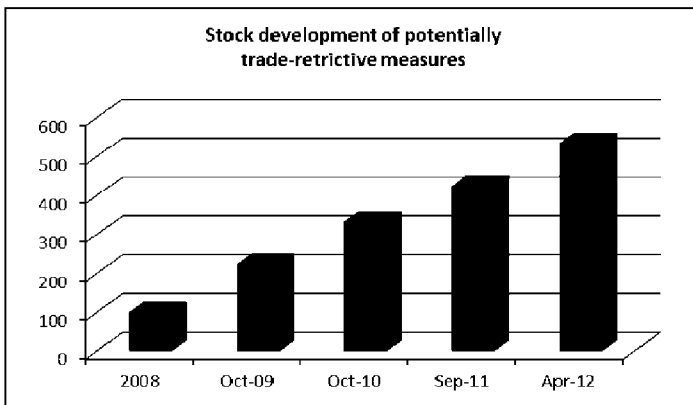
⁵ European Commission, *Ninth Report on Potentially Trade Restrictive Measures, identified in the context of the financial and economic crisis*, September 2011 – May 2012, p. 2.

⁶ Ibidem. Figures based on EU reports on potential trade restrictive measures.

mehanizmi zaštite trgovine, pravila porijekla, tehnički standardi,.. U drugu grupu instrumenata spadaju trgovinski sporazumi.

Treba naglasiti da su instrumenti zaštite trgovine zakonski opravdani ukoliko se ispoštuju relevantna pravila, te se u tom slučaju ne smatraju protekcionističkim mjerama. Iako su evropske zemlje među osnivačima savremenog međunarodnog sistema trgovinskih pravila, te svakodnevno rade na uklanjanju prepreka sa kojima se suočavaju izvoznici, nastojeći da otvore nove mogućnosti za evropska ulaganja, te smanje falsifikovanje i pirateriju evropske robe, mnogobrojne trgovinske barijere i dalje ostaju na snazi, ali se dodaju i nove (od početka krize potencijalno restriktivnih trgovinskih mjera bilo je 534⁵).

Slika 2. Potencijalno restriktivne trgovinske mjere⁶



Antidamping

Damping se javlja kada proizvođači iz zemlje koja nije članica EU prodaju robu na tržištu Evropske unije ispod cijene prodaje na domaćem tržištu ili po cijeni nižoj od troškova proizvodnje. Ukoliko se utvrdi da je došlo do dampinga i da bi takvo stanje moglo da prouzrokuje materijalne štete za evropske proizvođače, mogu se nametnuti privremene carine, ad valorem ili specifične, najčešće za period od 5 godina. U izvjesnim slučajevima vode se pregovori o utvrđivanju minimalnih uvoznih cijena sa trgovinskim partnerima što, s aspekta opšteg blagostanja predstavlja goru soluciju od uvoznih carina jer ne dolazi do prikupljanja i naplate budžetskih prihoda. Carine vezane za damping, poput ostalih carina, direktno pogoduju proizvođačima, ali ne i potrošačima i preduzećima koja kupuju dobra jer poskupljuju proi-

⁵ European Commission, *Ninth Report on Potentially Trade Restrictive Measures, identified in the context of the financial and economic crisis*, September 2011 – May 2012, str. 2.

⁶ Ibidem. Adaptirano prema izvještajima EU o potencijalno restriktivnim trgovinskim mjerama.

es. Anti-dumping tariffs, like other tariffs, are in direct favor of producers, but not consumers and companies that buy goods, because they raise the price of products. Therefore, the imposition of anti-dumping measures should not be against the interest of the EU as a whole.

The most common reason for imposing anti-dumping measures is to counter unfair competition. The purpose of anti-dumping measures was originally similar to the competition law, i.e. to prevent that kind of predatory pricing whereby a company tries to outcompete its competitors with low prices and then, when it has achieved a monopoly in the market, raises prices for user industries and consumers. However, the concept of unfair competition is not mentioned in the EU anti-dumping regulation and, accordingly, never considered or analyzed in any anti-dumping investigation.

Anti-subsidy

It is interesting that the EU defends itself from subsidized products from other countries by imposing countervailing tariffs while it alone intensively uses production and export subsidies to benefit its agricultural production. Financial contributions granted to companies that produce certain types of goods improve “artificially” their competitive position. Anti-subsidy policy bans predatory practices, i.e. subsidizing some products to help them better position on the EU market, at the lower price, and it is designed to protect against subsidized imports. From the point of unemployment in the European Union subsidized products pose a particular problem because they are considered to jeopardize the jobs in some industries. In order to impose countervailing duties, the following requirements are necessary:

1. subsidies are granted to a specific firm, industry or group of firms or industries,
2. there is injury suffered by the EU industry and there is a causal link between the injury and the subsidized imports, and
3. the imposition of measures is not against the Community interest.

The countermeasures are duties on imports of the subsidized products. They can be a percentage of the price of the goods, a fixed amount per unit or a minimum import price as the goods enter the EU. Measures are usually imposed for 5 years.

Since the solution for dumping and subsidies is a tariff, most economic analyses that study effects of tariffs are relevant. Just like decrease in tariffs increases the overall national welfare, allowing access to imported goods at a price lower than the costs of production of that very same product at home, increase in tariffs raises the price of imported goods while, at the same time, economic welfare falls.

zvođe. Stoga se antidamping mjere uvode samo u onim slučajevima kada se vjeruje da su usklađene sa širim interesima EU.

Najčešći razlog za primjenu antidampinških mjera je suprotstavljanje nepravednoj konkurenciji, odnosno prvobitna svrha ovih mjera je slična pravu konkurencije/takmičenja, odnosno sprečavanju te vrste predatorskih cijena kojima kompanija nastoji da izbací svoje konkurente a potom, nakon što ostvari monopol na tržištu, podiže cijene korisnicima industrije i potrošačima. Ipak, koncept nelojalne konkurencije ne pominje se u antidampinškoj regulativi EU i, shodno tome, nikada se nije razmatrao ili analizirao tokom antidampinške istrage.

Antisubvencijske mjere

Zanimljivo je da se od subvencionisanih proizvoda drugih država EU brani primjenom kompenzatornih carina dok ona sama intenzivno koristi proizvodne i izvozne subvencije za premiranje svoje poljoprivredne proizvodnje. Finansijskim dotacijama koje se upućuju preduzećima koja proizvode određenu vrstu robe „vještački“ se pospješuje konkurentna pozicija. Politika protiv subvencija obuhvata zabranu predatorske prakse, tj. subvencionisanje nekih proizvoda kako bi se oni što bolje i po što nižoj cijeni plasirali na tržište EU, odnosno namijenjena je zaštiti od subvencionisanog uvoza. S aspekta nezaposlenosti u Evropskoj uniji, subvencionisani proizvodi predstavljaju poseban problem jer se smatra da ugrožavaju radna mjesta u nekim privrednim granama. Za pokretanje ovih mjera zaštite trgovine, neophodno je da budu ispunjeni sljedeći uslovi:

1. da su posebne subvencije dodijeljene preduzeću, privrednoj grani ili grupi preduzeća i privrednih grana,
2. da je, na taj način, nanosena direktna šteta evropskoj privredi koja se ogleda u gubitku tržišnog učešća evropskih proizvođača, smanjenju proizvodnje i prometa, pa samim tim, i u gubitku profita i
3. da takve mjere ne nanose štetu interesima Zajednice, u smislu da troškovi njihovog preduzimanja moraju da budu srazmjerni koristima od postignutih efekata.

Antisubvencijske ili kompenzatorne mjere protiv subvencionisanih proizvoda mogu biti fiksne, varijabilne ili ad valorem, a najčešće traju 5 godina.

Budući da je rješenje za damping i subvencije carina, većina ekonomskih analiza koja se bavi efektima carina je relevantna. Baš kao što smanjenje carina povećava ekonomsko blagostanje omogućavajući privredi pristup uvezenim proizvodima po cijeni nižoj od one koja bi bila potrebna da se taj proizvod proizvede kod kuće, tako i povećanje carina povećava cijenu uvezene robe i samim tim smanjuje ekonomsko blagostanje.

Safeguards

Unlike subsidies and dumping, safeguard measures are not taken to address unfair trade practices, but they are rather concerned with imports of a certain product that increase so sudden and sharply so that EU producers cannot reasonably be expected to adapt immediately to the changed situation. In such cases, WTO and EU rules allow for short-term measures to regulate the imports, giving EU companies temporary relief and time to adapt to this unforeseen surge. Such measures usually apply to imports of the product from all non-EU countries. In return, the affected EU industry is required to restructure. Provisional safeguard measures may last up to 200 days and definite measures up to 4 years. Where they exceed 3 years, they must be reviewed at mid-term and can be extended for up to 8 years in total. Safeguards are the most restrictive trade defense instruments because they do not require the establishment of any unfair element. In addition, safeguard measures are imposed against all countries, including those that do not individually cause any injury to the domestic industry. Although this kind of instrument should be used with extreme caution, unfortunately, it seems this was not always the case⁷.

Chart 3. Motives for imposing Trade Defense Instruments⁸

Counterbalance to the reduction in tariffs
Analogue for domestic competition policy
Protection against predatory practices and unfair competition
Retaliatory mechanism to protect EU exporter interests
Insurance against excessive trade pressures
Macroeconomic buffer
Tool of industrial policy
Protection for vulnerable communities from disruptive change emanating from the trading system

EU regulations contain clauses that prevent exporters to circumvent measures. The Commission regularly monitors the effectiveness of measures in force. Anti-dumping, countervailing and safeguard measures are considered the partial counterweight to the liberalization of tariff rates. Also, some authors state that their use has increased at the global level since the economic crisis. Moreover, trade defense has often been considered an expedient strategy to help selectively embraced sectors to fight off foreign competition, at least for a while. The question is whether the EU also (unju-

⁷ Adapted from European Commission, *Ninth Report on Potentially Trade Restrictive Measures identified in the context of the financial and economic crisis*, September 2011 – May 2012, p. 22.

⁸ BKP Development Research & Consulting, *Evaluation of the European Union's Trade Defence Instruments*, Final Evaluation Study, Vol. 1: Main Report, Munich, Germany, 2012, p. 44.

Zaštitne mjere

Za razliku od dampinga, zaštitne mjere se ne koriste zbog nefer trgovinske prakse, već se odnose na uvoz određenog proizvoda koji se naglo i neočekivano povećava tako da se evropski proizvođači ne mogu odjednom prilagoditi novonastaloj situaciji. U ovakvim slučajevima, pravila STO i EU odobravaju kratkoročne mjere da se reguliše uvoz, dajući evropskim preduzećima privremeni predah i vrijeme da se prilagode ovom nepredvidljivom talasu. Ove mjere se obično primjenjuju na uvoz proizvoda iz svih neevropskih zemalja. Zauzvrat, pogođena evropska industrija se mora oporaviti, odnosno restrukturisati. Privremene zaštitne mjere mogu trajati do 200 dana, a trajne do 4 godine. Po isteku tri godine i revizije, mogu se produžiti do najviše 8 godina sveukupno. Inače, zaštitne mjere su najrestriktivnije mjere zaštite trgovine, jer ne zahtijevaju utvrđivanje prisustva nefer elementa. Pored toga, ove mjere se nameću svim zemljama, uključujući one koje ne stvaraju povrede domaćoj industriji. Iako se ova vrsta instrumenata treba koristiti sa velikim oprezom, nažalost, izgleda da to nije uvijek slučaj⁷.

Slika 3. Motivi korišćenja instrumenata zaštite trgovine⁸

Protivteža smanjenju carinskih stopa
Analogija domaćoj antimonopolskoj politici
Borba protiv predatorske prakse i neobjavljene konkurencije
Protivteža interesima evropskih izvoznika
Osiguranje od prekomjernih trgovinskih pritisaka
Makroekonomski motivi
Instrument industrijske politike
Zaštita ranjivih zajednica od poremećaja koji proizlaze iz trgovinskog sistema

Pravila EU sadrže i klauzule koje sprečavaju izvoznike da zaobidu mjere. Komisija redovno prati efikasnost mjera na snazi. Antidampinške, kompenzatorne i zaštitne mjere se smatraju djelimičnom protivtežom liberalizaciji carinskih stopa. Takođe, pojedini autori navode da se njihova upotreba povećala od ekonomske krize i to na globalnom nivou. Nadalje, vjeruje se da zaštita trgovine predstavlja lukavu strategiju pomoći odabranim sektorima da se suprotstave inostranoj konkurenciji, pa makar i na kratko. Postavlja se pitanje da li je EU takođe (neopravdano) pojačala svoje mehanizme zaštite trgovine kako bi zaštitila domaća preduzeća od strane konkurencije. Osim toga, utvrđeno je da mnogim istragama za zaštitu trgovine nedostaje

⁷ European Commission, *Ninth Report on Potentially Trade Restrictive Measures, identified in the context of the financial and economic crisis*, September 2011 – May 2012, str. 22.

⁸ Adaptirano prema BKP Development Research & Consulting, *Evaluation of the European Union's Trade Defence Instruments*, Final Evaluation Study, Vol. 1: Main Report, Munich, Germany, 2012, str. 44.

stifiably) increased its trade defense mechanisms to protect domestic companies from foreign competition? Furthermore, it was also found that too many trade defense investigations were lacking transparency. In certain circumstances it is not always possible to assess whether measures are legally justified or not, in which case, they could in fact be considered as protectionist measures. Yet the broader concern is that such an approach turns trade defense policy into a tool of managed trade, the derided school of thought that targets market shares and empowers government to intervene in trade to achieve political aims.

EFFICIENCY OF DEFENSE INSTRUMENTS

The European Union is generally considered to be one of the main – traditional users of TDI, along with the USA, Canada, Australia and New Zealand. Still, the European Union is a moderate user of these measures. For example, at the end of 2012, the EU had 102 anti-dumping (AD) and 10 anti-subsidy (AS) measures in force and an additional 19 AD and 6 AS ongoing investigations initiated during the year. In comparison, according to the first-half 2012 data submitted to the WTO, the US have 232 AD and 50 AS measures in force, India – 222 AD measures, China – 110 AD and 4 AS,.. However, during the recent global recession, the EU like other major economies expanded its use of TDI only marginally (Bown, 2010). While the EU is the third most frequent user of TDI after India and the USA, its use of TDI is moderate in relation to its share in world trade: the EU accounted for 17.8% of world imports (excluding intra-EU trade) during the evaluation period, but only for 10.7% of all TD investigations and 9.4% of all measures imposed. The amount of EU imports affected is also quite small: in-force measures affect about 0.6% of EU imports (WTO, 2011). TD measures were taken in a wide range of agricultural and industrial sectors. However, there was a heavy concentration of cases in the chemicals and metal products sectors, with lesser spikes in the plastics and machinery and equipment sectors. In terms of exporting countries, 130 countries were named in the new 78 investigations; most of these were developing economies, with China accounting for over one-third of all individual investigations.

The observed effect of TD measures is to raise the price and reduce the volume of imports of the subject goods. This is simply the effect of tariffs and thus indistinguishable from ordinary trade protection: domestic producers benefit but consumers or downstream industries are negatively affected. Since standard economic analysis indicates that the costs to consumers or downstream industries of the higher prices induced by tariffs are normally larger than the benefits to domestic producers, the economic rationale for TD depends

transparentnost. Naime, u određenim okolnostima nije uvijek moguće procijeniti da li su mjere zakonski opravdane ili ne, zbog čega se one, ipak, mogu smatrati protekcionističkim mjerama. Ipak, više brine da li ovakav pristup pretvara politiku zaštite trgovine u sredstvo vođene trgovine usmjerene ka tržišnim udjelima, koja omogućava vladama da se miješaju u trgovinu kako bi ostvarile političke ciljeve.

EFIKASNOST INSTRUMENATA ZAŠTITE

Evropska unija se smatra jednim od glavnih – tradicionalnih korisnika instrumenata zaštite trgovine, zajedno sa SAD, Kanadom, Australijom i Novim Zelandom. Inače, Evropska unija je umjeren korisnik ovih mjera. Na primjer, na kraju 2012. godine, EU je imala 102 antidampinške (AD) mjere i 10 antisubvencijskih (AS) mjera na snazi i dodatnih 19 AD i 6 AS istraga (u toku) pokrenutih tokom godine. Poređenja radi, prema podacima Svjetske trgovinske organizacije za prvu polovinu 2012. godine SAD su imale 232 AD i 50 AS mjera na snazi, Indija – 222 AD mjere, Kina – 110 AS i 4 AS,.. Ipak, tokom nedavne globalne recesije, EU je, baš kao i druge velike ekonomije, povećala upotrebu ovih mjera, doduše, prema mišljenju nekih autora (Bown, 2010), samo marginalno. I dok je EU treći najveći korisnik instrumenata zaštite trgovine, poslije Indije i SAD, njena upotreba ovih mjera je umjerena u odnosu na njen udio u svjetskoj trgovini: EU je obuhvatala 17,8% svjetskog uvoza (isključujući trgovinu unutar EU) tokom posmatranog perioda, 10,7% od svih istraga i 9,4% svih nametnutih mjera. Količina pogodnog uvoza EU je takođe prilično mala: mjere na snazi utiču na oko 0,6% evropskog uvoza. Mjere zaštite trgovine preduzimane su najčešće u poljoprivrednom i industrijskom sektoru. Velik broj slučajeva je, takođe, koncentrisan u hemijskom i sektoru metalne proizvodnje, te manji broj u oblasti plastike, opreme i mašina. Kada su u pitanju izvozne zemlje, u novih 78 istraga imenovano je 130 zemalja; većina su zemlje u razvoju, dok Kina čini jednu trećinu svih pojedinačnih istraga.

Uočen učinak mjera zaštite trgovine je da podižu cijene i smanjuju obim uvoza predmetne robe. To je jednostavno efekat carina zbog čega se ne može razlikovati od obične zaštite tržišta: domaći proizvođači imaju koristi dok su potrošači i prerađivačke industrije negativno pogođeni. Budući da uobičajena ekonomska analiza ukazuje na to da su troškovi za potrošače i prerađivačku industriju izazvani carinama obično veći od koristi za domaće proizvođače, ekonomska opravdanost trgovinske zaštite zavisi prvenstveno od toga da li su mjere zaštite trgovine usmjerene protiv konkurencije ili

crucially on whether the practices addressed by trade defense measures are anti-competitive or market-distorting, or entail excessive adjustment costs by the EU industry. Furthermore, the study⁹ finds that the EU TD system is comparatively slow and somewhat costly for industry to use: on average, it takes almost 2.5 years from the onset of injury to the implementation of measures. The cost to a complainant of participating in an investigation is typically around EUR 200,000 but can be as high as EUR 1 million. In international comparison, the EU system fares worse in terms of duration of investigations (several peer countries take considerably less time to complete investigations) but better on costs: in the USA, the typical cost for a complainant may easily exceed EUR 700,000 to EUR 1.1 million. While the relatively lengthy process and the associated costs serve as a discipline against overuse, for small and medium-sized enterprises, this compounds the problems of obtaining TDI relief where it might be warranted. It should be mentioned that the EU's trade defense instruments have remained largely unchanged for more than 15 years. Thus, the Commission has taken the initiative to modernize the current instruments to improve their efficiency and effectiveness.

Calculations from the National Board of Trade¹⁰ show that exporters from third countries that are not facing anti-dumping measures are those who benefit to the largest extent from the measures. According to the calculations, companies in countries that are targeted with anti-dumping measures lose on average 9 percentage points of the EU market share while exporters in third countries that are not subject to anti-dumping measures, on average, gain 8 percentage points of the EU market share. The market share of the EU producers only increase with 1 percentage point. This indicates that the EU industry is not competitive at an international level.

Costs of protection

Each 1 euro gained by the protected EU industry implies an extra cost of 4.5 euro for importers, user industry and consumers in the EU.

Furthermore, the anti-dumping protection comes at a rather high price. With every 1 euro gained in the protected sector, user industry and consumers pay, on average, 4.5 euro in higher prices and tariffs, according to the calculations by the National Board of Trade. Two third of all anti-dumping measures are targeting intermediate goods. The anti-dumping measures, accordingly, increase costs for companies with globalized production chains. The result of anti-dumping measures is that the competitiveness of EU in-

9 BKP Development Research & Consulting, *Evaluation of the European Union's Trade Defence Instruments*, Final Evaluation Study, Vol. 1: Main Report, Munich, Germany, 2012.

10 <http://www.kommers.se/In-English/Trade-defence-instruments-/Review-of-EU-Trade-Defence-Instruments-in-Brief/> accessed on 14. 4. 2014.

distorzija tržišta, ili uključuju prevelike troškove prilagođavanja od strane industrije EU. Nadalje, studija⁹ pokazuje da je sistem zaštite trgovine Evropske unije relativno spor i donekle skup za industriju: u prosjeku, potrebno je skoro 2,5 godine od početka povrede do sprovođenja mjera. Troškovi podnosioca žalbe za učešće u istrazi su obično oko 200.000 evra, ali mogu ići i do milion evra. U međunarodnom kontekstu, ovakav sistem Evropske unije je lošiji u pogledu trajanja istrage (nekim zemljama potrebno je daleko manje vremena da okončaju istrage), ali bolji kada su u pitanju troškovi: u SAD, uobičajena cijena koju snosi podnosilac žalbe može lako preći 700.000 do 1,1 milion evra. Dok relativno dugotrajan proces i prateći troškovi omogućavaju određenu disciplinu protiv pretjerane upotrebe, za mala i srednja preduzeća ovo predstavlja problem sticanja olakšanja u opravdanim situacijama. Treba podsjetiti da se mehanizmi zaštite trgovine EU nisu mijenjali više od 15 godina, zbog čega je Komisija inicirala modernizaciju trenutnih instrumenata kako bi se poboljšala njihova efikasnost i efektivnost.

Proračuni Nacionalnog odbora za trgovinu¹⁰ pokazuju da izvoznici iz trećih zemalja koji se ne suočavaju sa antidampinškim mjerama imaju najviše koristi od ovih mjera, više nego sami evropski proizvođači koji su tražili zaštitu. Prema procjenama, kompanije u zemljama u kojima se primjenjuju antidampinške mjere gube u prosjeku i do 9 procenata tržišnog udjela EU, dok izvoznici iz trećih zemalja koji nisu predmet antidampinških mjera, u prosjeku, ostvaruju povećanje i do 8 procenata udjela na tržištu EU. Tržišno učešće evropskih proizvođača se povećava tek za 1%. Ovo ukazuje na to da industrija Evropske unije nije konkurentna na međunarodnom nivou.

Visoka cijena zaštite

Svaki 1 evro koji stiče zaštićena industrija EU uključuje dodatnih 4,5 evra troškova za uvoznike, korisnike industrije i potrošače u EU.

Nadalje, čini se da troškovi zaštite premašuju koristi. Naime, za svaki 1 evro koji zaradi zaštićeni sektor, korisnici industrije i potrošači plaćaju, u prosjeku, 4,5 evra u višim cijenama i carinama. Dvije trećine svih antidampinških mjera je usmjereno ka repromaterijalu čime se, automatski, povećavaju troškovi preduzeća sa globalizovanim proizvodnim lancima. Rezultat antidampinških mjera je negativan uticaj na konkurentnost evropske industrije kako na internom, tako i na tržištu van EU, na štetu evropske privrede

9 BKP Development Research & Consulting, *Evaluation of the European Union's Trade Defence Instruments*, Final Evaluation Study, Vol. 1: Main Report, Munich, Germany, 2012.

10 <http://www.kommers.se/In-English/Trade-defence-instruments-/Review-of-EU-Trade-Defence-Instruments-in-Brief/> posjećeno 14. 4. 2014. godine.

dustry is negatively affected, on the internal market and on markets outside the EU, to the detriment of the EU's economy, as it has negative effects on the user industry and consumer welfare.

CONCLUSION

According to the Overseas Development Institute¹¹, the EU moves towards further protectionist stance of trade policy that threatens to damage the global economy and the economies of many countries in the developing countries. In addition, the world's leading experts warn about the lack of vision and coherence in its approach to developing countries. Strong protectionist (foreign) trade policy of the EU, especially in areas such as agriculture, fishing, textiles and some industry reduces the ability of developing countries to access and enter on the EU market. Therefore, these countries regularly record trade deficit that cannot be compensate with certain benefits that the Union provide through trade agreements. In addition, the products of these industries (such as food, clothing, footwear and certain industrial products) in the EU are very expensive, which further affects the growth of labor costs, production costs, decrease the competitiveness of the EU economy, and leads to asymmetric redistribution within the EU. This happens because the surplus of agricultural products, whether in the form of gifts or at low prices, is sent to underdeveloped countries threatening the agricultural and industrial production in those countries. This situation contributes directly to the growth of poverty and reduces the possibility of producing those goods for which the EU gives import preferences through various trade agreements. Given that these agreements are usually concluded in times of economic expansion, not stagnation or slight growth, it can be concluded that they can often jeopardize the interests of individual countries or groups of countries. In their absence, certain countries and economies can benefit from diametrically opposite measures (i.e. protectionism).

Although the external trade of the EU should be harmonized with other segments of the external relations of the Union, this is not always possible to achieve in practice. It is therefore not surprising that, at times, the interests of foreign policy as well as security and defense policy directly affect the course of trade relations with trade partners of the EU. Trade defense measures, as well as other instruments of foreign trade policy, are undoubtedly causing distortions in world trade. According to economic theory, by increasing trade barriers, through tariff and non-tariff means, domestic consumer costs increase, foreign exporters' sales decrease and efficiency

11 <http://www.theguardian.com/global-development/2012/jul/27/eu-trade-reforms-developing-countries> published on 27. 7. 2012. accessed on 14. 4. 2014.

ostavljajući, takođe, negativne posljedice na korisnike industrije i blagostanje potrošača.

ZAKLJUČAK

Prema izvještaju Instituta za prekookeanski razvoj¹¹, EU se sve više opredjeljuje za protekcionistički stav nad trgovinskom politikom što će ugroziti globalnu privredu, kao i privrede niza zemalja u razvoju. Pored toga, vodeći svjetski eksperti upozoravaju na nepostojanje vizije i koherentnosti u njenom pristupu zemljama u razvoju. Snažan protekcionistički karakter Spoljnotrgovinske politike EU, naročito u oblastima kao što su poljoprivreda, ribolov, tekstil i neke industrije smanjuje mogućnost pristupa i ulaska nerazvijenih zemalja na Zajedničko tržište EU. Stoga ove zemlje redovno bilježe trgovinski deficit koji se ne može nadoknaditi izvjesnim pogodnostima koje im Unija pruža putem trgovinskih sporazuma. Osim toga, proizvodi ovih industrija (poput hrane, odjeće, obuće i nekih industrijskih proizvoda) u EU su veoma skupi što dodatno utiče na rast cijene rada, troškova proizvodnje, pad konkurentnosti privrede EU, te dovodi i do asimetričnih preraspodjela unutar same EU. Ovo stoga što se viškovi poljoprivrednih proizvoda, bilo u vidu poklona, bilo po niskim cijenama, usmjeravaju u nerazvijene zemlje ugrožavajući poljoprivrednu i industrijsku proizvodnju u tim zemljama. Ovakva situacija direktno doprinosi rastu siromaštva, kao i smanjenoj mogućnosti proizvodnje one robe za koju im EU daje uvozne pogodnosti putem različitih trgovinskih sporazuma. S obzirom da se ovakvi sporazumi obično sklapaju u trenucima privredne ekspanzije, a ne stagnacije ili blagog rasta, zaključuje se da oni često mogu ugroziti interese pojedinih država ili grupa zemalja. U njihovom odsustvu, izvjesne zemlje i privrede mogu profitirati od dijametralno suprotnih mjera (tj. protekcionizma).

Iako bi spoljna trgovina EU trebalo da bude usaglašena sa ostalim segmentima spoljnih odnosa Unije, to u praksi nije uvijek moguće postići. Stoga ne čudi podatak da se, ponekada, interesi spoljne politike i politike bezbjednosti i odbrane direktno odražavaju na kurs trgovinskih odnosa sa trgovinskim partnerima EU. Mjere zaštite trgovine, baš kao i drugi instrumenti spoljnotrgovinske politike, nedvosmisleno izazivaju poremećaje u svjetskoj trgovini. Podsjećamo da se, prema ekonomskoj teoriji, povećanjem trgovinskih barijera putem carina ili necarinskim sredstvima, povećavaju troškovi domaćih potrošača, smanjuje prodaja stranih izvoznika, te sprečava sticanje efikasnosti putem komparativnih prednosti. Ove odluke su, stoga, političke, te se, vjerovatno, donose kako bi se mogući rivali onespo-

¹¹ <http://www.theguardian.com/global-development/2012/jul/27/eu-trade-reforms-developing-countries> postavljeno 27. 7. 2012. godine, posjećeno 14. 4. 2014. godine.

gains through comparative advantage are prevented. These decisions are therefore political. Arguably they have been put in place to prevent possible rivals from catching up with EU countries. The claim that the imports from middle-income countries will be substituted by those from low-income countries seems dubious at best. Therefore, these forms of protectionist measures limit the access of supply from other countries to the EU market. Besides preventing further liberalization of international trade, they harm not only to developing countries, but the European economy and its consumers, but also developed countries with liberal trade regime (for example USA, Australia and New Zealand). For example, the EU is correct in being worried about market and trade distortions in China. Yet it cannot fight foreign market distortions with own market distortions; it cannot fight fire with fire. Rather than politically charging its trade defense policy, the EU should depoliticize and discipline it¹². Since Foreign Trade Policy of the EU is a scene of strong interests, it is quite rigid so we cannot expect the impossible, i.e. rapid and radical changes.

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¹² Erixon, F., "Solar Panels, Telecommunication Equipment – and the "Modernisation" of EU Trade Defence Policy", *ECIPE Bulletin*, No. 5, 2013, p. 2.

sobili od hvatanja koraka sa zemljama EU. Tvrdnja da će uvoz iz zemalja sa srednjim prihodom biti zamijenjen uvozom iz zemalja sa niskim dohotkom je, najblaže rečeno, sumnjiva. Ovim oblicima protekcionističkih mjera ograničava se, dakle, pristup ponudi iz drugih zemalja na tržište EU. Osim što onemogućavaju dalju liberalizaciju međunarodne razmjene, one štete ne samo zemljama u razvoju, nego i evropskoj privredi i njenim potrošačima, ali i razvijenim zemljama sa liberalnim trgovinskim režimom (npr. SAD, Australiji i Novom Zelandu). Na primjer, zabrinutost EU za distorzije tržišta i trgovine u recimo jednoj Kini je opravdana. Ipak, ne može se boriti protiv distorzija na inostranim tržištima sopstvenim tržišnim poremećajima; odnosno vatra se ne gasi vatrom. Umjesto što politički boji svoju politiku zaštite trgovine, Evropska unija bi trebala da je depolitizuje i disciplinuje¹². Kako Spoljnotrgovinska politika EU predstavlja poprište snažnih interesa, proizlazi da je ova politika prilično rigidna i da od nje ne treba očekivati nemoguće, tj. brze i radikalne promjene.

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