

European Office



## Position paper on subsidies from third countries

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## Introduction

- The German Mechanical Engineering Industry Association (VDMA) supports the European Commission in its efforts to examine subsidies from third countries more closely. Subsidies distort production costs and thus influence competition in the EU's Internal Market. They thus cause disadvantages for market participants from the European mechanical engineering industry. Therefore, VDMA has long been calling for more transparency in this area.

## Addressing subsidies at the multilateral level of the World Trade Organization (WTO)

- VDMA advocates to tackle illegal State subsidies primarily at the multilateral WTO level. Therefore, VDMA supports the EU proposal to reform the „Agreement on Subsidies and Countervailing Measures” (ASCM). According to this, a subsidy would automatically be considered illegal if the State concerned has not notified the WTO in advance. In this case, in the event of a complaint, the State concerned would have to prove that the measure was not an illegal subsidy as defined by WTO rules. In addition, retaliatory measures against a State that fails to notify a subsidy may be imposed by the other member countries of the WTO.

## Tackling subsidies via EU trade agreements

- VDMA supports the EU strategy of tackling third country subsidies through bilateral and regional trade agreements, e.g. through an investment agreement between the EU and China, which is currently being negotiated.

## Establishing one uniform EU legal instrument on subsidies

- Just as the Monopolies Commission in Germany, VDMA supports the introduction of a uniform EU legal instrument that would put subsidies from third countries on an equal footing with those from EU Member States. This instrument should not consist of several modules and should intervene in the case of all third country subsidies which, as a measure by a Member State, would violate Article 107 (1) TFEU. Moreover, the European Commission should be solely responsible for its enforcement. In the case of companies from third countries in which the State holds equity interests above a certain threshold (e.g. 20 %), it should be possible to take measures as they would be taken if a Member State were to breach Article 107 (1) TFEU.
- Other important elements of such an instrument include:
  - The requested uniform legal instrument should not create additional bureaucratic hurdles for EU companies. At the same time, the intellectual property rights and know-how of our engineering companies must be protected. Moreover, investigations should be carried out within a short and predetermined time frame.
  - A new subsidy instrument should not collide with already existing EU instruments such as the „Foreign Direct Investment Regulation”, State aid control and the EU Directives on public procurement. In general, the EU must remain open to foreign investment from third countries.
  - The thresholds of such a uniform instrument should be appropriate. The EU's proposal (EUR 100 million), for example, seems quite high for investments in the European mechanical engineering industry. This could lead to concentrations or takeovers "under the radar".

- VDMA is critical towards the planned examination of an EU interest. At present, the criteria are not clear and leave much room for interpretation.
- VDMA is in favor of initiating investigations after a company has submitted a complaint to the competent authority about an illegal subsidy from a third country. VDMA is critical of the option of an investigation *ex officio*.

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