Battery Electric Vehicles from China: a timely update on the EU's anti-subsidy duties and the Commission's new guidance on price undertakings

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The European Commission's recent investigation into support for Battery Electric Vehicles ("**BEV**") from China resulted in trade defence duties being imposed on exporters designed to restore a level playing field. This represented a significant development for the Commission's trade defence efforts. New developments, however, open a tightly controlled alternative to such duties: price undertaking proposals that comply with strict pricing rules and which are capable of real-time traceability and compliance monitoring.

This Law-Now outlines the European Union's ("**EU**") trade defence measures in the BEVs from China trade case to date, and explains the emerging guidance on price-undertaking offers.

How we got here: EU anti-subsidy measures on BEVs from China

The European Commission launched its anti-subsidy investigation on its own initiative (i.e. not based on an EU-industry complaint) in October 2023. The investigation concluded that China's BEV value chain benefitted from unfair, distortive subsidies which was injurious to the EU BEV industry. As measures to remedy the injury to EU producers, the Commission adopted provisional countervailing duty measures in July 2024, then definitive countervailing duties applicable from 30 October 2024 (countervailing duties being the relevant trade duty imposed following a finding of anti-subsidy in an investigation).

Such measures cover new BEVs designed primarily for the transport of up to nine persons, propelled solely by one or more electric motors, including range-extender configurations[1]. Hybrids and internal-combustion vehicles are out of scope, therefore already significantly limiting the application of the measures.

The duties apply for a period of five years (subject to review) and are set at company level, ranging between 7.8% and 35.3% (depending on individual assessment and co-operation or not with the Commission's investigation). The Commission has signalled throughout that any potential alternative proposal to such trade duties must be enforceable, and at least as effective as duties in eliminating injurious subsidisation, consistent with World Trade Organisation ("**WTO**") rules.

Price undertakings: pathway and requirements

In December 2025, the Commission opened a partial interim review to assess the first alternative to duties in eliminating such injurious subsidisation - in relation to a specific China-built model - proposed by an OEM. The proposed undertaking consisted of imposing a minimum import price and an annual import quota, and if accepted, the applicable countervailing duties would be suspended for the imports of the exporting producer covered by the undertaking.

Following this dialogue, the Commission's 12 January 2026 Guidance Document[2] now explains how it will assess any such undertaking offers – including this first proposal – as a possible alternative to the duties, on an objective and non-discriminatory basis and in line with WTO rules. This essentially represents a framework for carmakers to submit BEV exporter offers.

The key elements of the Commission's approach to assessing price undertakings are:

1. **The equivalence test:** Any undertaking must "*eliminate the injurious effects of the subsidies and provide equivalent effect to duties*." This is the anchor for all other elements and informs pricing, monitoring, and enforcement design.
2. **Pricing mechanics:** Given the wide variation in models and configurations, the Commission indicates undertakings should set *minimum import prices* for *each* model and configuration option. The reference point is the customer-facing net sales price to the first independent consumer in the EU rather than for importers or dealers. For calculating minimum import prices, the Commission outlines two indicative methods: (i) building from the exporter's own shipping prices – including the cost of goods, insurance and freight – during the investigation period plus the applicable duty margin, or (ii) benchmarking against the EU sales price of a comparable unsubsidised BEV. Both approaches are intended to be auditable and to meet the 'equivalence' standard.
3. **Control against cross-compensation**: Any undertaking must be technically practicable for monitoring and enforcement, such that there may be vehicle-level traceability from export through to final EU sale and monitoring subsequent reductions in the net sales price. The Guidance Document cautions that undertakings from exporters selling other vehicles (for example, hybrids) may be harder for the Commission to accept due to elevated circumvention risks, i.e. cross-compensation across a given product range which falls both inside and outside the undertaking. However, volume commitments (e.g. annual caps), limited duration for the price undertaking, or internal reorganisation (e.g. creation of internal workflows and documentation schemes to facilitate vehicle-specific tracking from export to sale) can be used as risk mitigation.
4. **EU investment commitments**: The Commission may consider clearly defined EU investment commitments when assessing offers, provided they have specific scope, timelines, and financial magnitude with verifiable milestones. However, this is to be treated as a serious commitment and any subsequent non-compliance may be treated as a breach that could trigger withdrawal and retroactive duty collection.

The Commission emphasises that all offers will be assessed under the same legal criteria, objectively and without discrimination, consistent with WTO rules.

Negotiations and global context

The Commission's new Guidance Document follows months of dialogue between the EU and China.

Initially, contacts between the EU and China were limited after the EU BEV duties were imposed. In response to the countervailing duties, China initiated a WTO dispute against the definitive duties in November 2024 and launched anti-dumping investigations into European products. However, negotiations between the EU and China have resumed as part of the wider context of global trade frictions, following the US tariffs put in place in 2025 against both the EU and China affecting a wide range of sectors, including cars.

Chinese BEV makers face multiple challenges from overcapacity and a slower market in China, in addition to being closed off from the US market where they have subject to 100% tariffs even prior to the US's 2025 tariff increases. In this context, Europe remains a key available market for Chinese BEVs exports. On the other hand, however, global trade frictions have not alleviated concerns for

European BEV carmakers facing competition from Chinese BEVs which benefit from subsidies that prompted the imposition of these tariffs. Accordingly, these discussions have focused on the wider exploration of price undertakings compatible with WTO rules.

Market responses and outlook

The risk of cross-compensation by exporters offering both BEVs and other vehicles (meaning that they could offset the measure with products falling outside its scope) highlighted in the Guidance Document can be explained by the sharp increase in imports of hybrid vehicles (not impacted by the EU BEV duties) since the BEV duties came into force. In the meantime, there has been a decline in registrations of Chinese brands BEVs in Europe.

One of the key implications following the publication of this Guidance Document is the practical feasibility, in particular to monitor this risk.

The new partial interim review will take from 12 months up to 15 months. Where an undertaking is accepted by the Commission, countervailing duties will not apply to the transactions covered by the undertaking.

Conclusion

The publication of this new Guidance Document by the Commission and the opening of a partial interim review mark a key first step in further negotiations on EU duties imposed on Chinese BEVs in the EU - provided that that the affected carmakers are able to offer both price undertakings equivalent to the duties, *and* which are capable of offsetting Chinese subsidies. Our trade team will continue to monitor developments on this case and publish updates to this Law-Now – for further information please contact the authors.

[1] Such motors are currently classified under CN code ex 8703 80 10 (TARIC 8703 80 10 10 10).

[2] This Guidance Document is available here: https://tron.trade.ec.europa.eu/investigations/case-history?caseId=2684#AS689

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