

# ***EU Anti-Subsidy Investigation on China's New Energy Vehicle Industry: Legal Framework, Procedure, and Outcome Analysis***

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**Abstract:** This paper primarily examines the anti-subsidy investigation conducted by the European Union (EU) on Chinese electric vehicles (EVs) which based on BASR. It provides a detailed analysis of the entire process of the anti-subsidy investigation within the established legal framework of the EU and evaluates the official findings presented by the EU. Based on this analysis, the paper further discusses potential policy improvements that China can consider in response to the investigation results, as well as strategies and approaches that could be adopted to address similar challenges in the future.

## **1. Introduction**

In recent years, due to the rapid advancement of technology and the increasing emphasis on environmental governance by nations worldwide, the use of clean energy to meet daily life needs has gradually come into focus, with EVs occupying a significant position.

Among countries worldwide China has emerged as one of the leading nations in the field of electric vehicles. For instance, in 2023, China's export volume of electric vehicles reached 1.203 million units, marking a 77.6% increase compared to the previous year, with export destinations spanning over 180 countries across Europe, Asia, Oceania, the Americas, and Africa. Among these, EU is the largest export market for Chinese electric vehicles[1]. As data available from MERICS, 40% of China's electric vehicles are exported to the EU, and in 2022, 28% of electric vehicles in the EU market originated from China.

On September 13, 2023, during the annual State of the European Union address, Ursula von der Leyen, President of the European Commission, declared the initiation of an anti-subsidy investigation into EVs originating from China [2].

The EU investigation committee alleges that the import volume of EVs from China has recently surged, with prices reportedly 20% lower than those of comparable EU products. This suggests that European consumers are more inclined to select the more cost-effective Chinese EVs when purchasing electric cars [3].

## **2. Basic legal principles related to the case**

The European Union's most authoritative regulation on countervailing measures is Regulation (EU) 2016/1037, known as the Basic Anti-Subsidy Regulation (BASR). Compared to the ASCM, the

BASR generally refines and supplements certain aspects of the regulatory framework to suit the specific market conditions of EU[4].

## **2.1 Definition of a subsidy**

The subsidy definition under ASCM Article 1 comprises two constitutive elements: (1) financial contribution/income-price support, and (2) conferred benefit. BASR adopts this dual framework, necessitating case-by-case examination of Chinese policies for compliance.

## **2.2 Determination of injury**

Injury is categorized into two types: material injury, threat of material injury,. Material injury refers to non-negligible harm already sustained by the domestic industry. In contrast, threat of material injury denotes a situation where, there is sufficient evidence to suggest that inaction will lead to imminent and foreseeable material injury.

## **2.3 The calculation of the benefit derived from subsidies**

In anti-subsidy investigations, it is a process that is typically transparent and for which the authorities must provide an explanation of the results.

In this case, how the Commission has calculated the subsidy rate would be introduced in chapter 4 later in this paper.

## **2.4 The imposition of countervailing duties**

If the investigating authorities present findings that demonstrate the existence of subsidies and injury, and that there is a definitive causal link between the subsidies and the injury, the authorities usually may impose countervailing duties which may last no more than 5 years against the subsidized imported products. If a review prior to the expiration reveals that the subsidies would continue to cause injury or result in the recurrence of injury, this period may be extended.

## **3. Process of EU anti-subsidy investigations**

This chapter will briefly analyze part of the process, based on the framework of the BASR, how EU will conduct an anti-subsidy investigation. The process consists ten steps in total, and the general procedure can be seen in Figure 1.

As the initial step in the anti-subsidy investigation procedure, the European Union offers two viable options for initiating an investigation: (1) a complaint or (2) self-initiation.

In this case, EU has rarely adopted the second method, that is, the self-initiation (or ex officio) method, to conduct an investigation into China's NEV enterprises[5].

Then upon the publication of the notice of initiation, the Directorate-General for Trade of the European Commission will send questionnaires to Chinese exporters and competent authorities, EU producers, importers, and users. If the number of companies exceeds the manageable scope, the largest companies will be selected for sampling. The deadline for responding to the questionnaires is typically 37 days after the European Commission has determined the sample. After reviewing the questionnaires, on-site verification of the submitted data will be conducted, and further questionnaires may be required. The investigation will be completed within 13 months of initiation. The purpose of the questionnaire survey is mainly to collect macro and microeconomic on the NEV market between China and EU, such as production, sales, costs, profits, and employment data to help both calculate

and investigate.

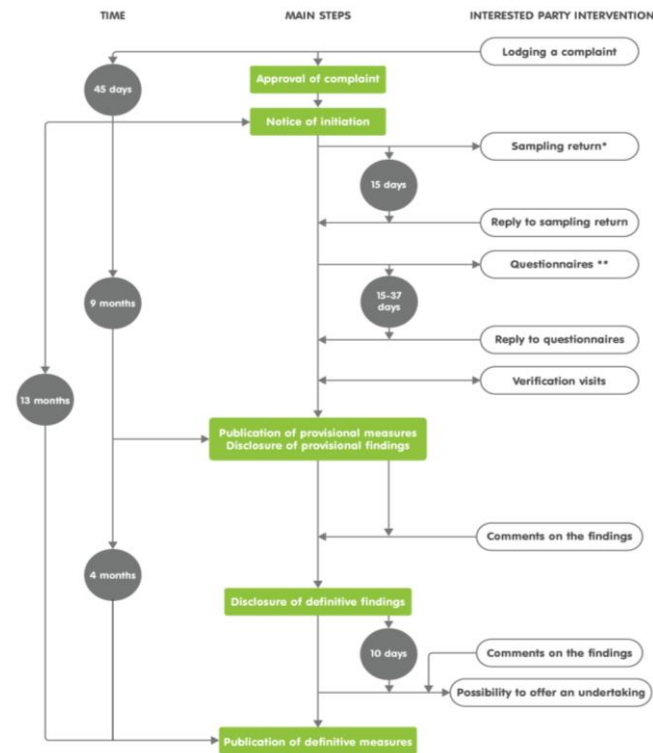


Figure 1: The process of EU countervailing duty investigation based on BASR framework (resource <https://www.cirfs.org/economic/anti-subsidy-complaint>)

#### 4. Investigation Results from EU

According to Document No. 2024/1866 issued by the European Commission following the conclusion of the investigation [6].

The following sections will present the findings of the European Commission's investigation, covering the following aspects.

##### 4.1 Direct Government Intervention in the Development of China's NEV Industry

The European Commission identified evidence of direct government intervention in the development of the domestic BEV industry from multiple regulations and plans issued by the Chinese government by examining the following documents:

(1) Decision No. 40 of the State Council on Promulgating and Implementing the “Temporary Provisions on Promoting the Industrial Structure Adjustment”:

Though issued and revised the “Guidance” in 2013 and 2019. Both editions of the catalogue include the NEV industry, specifically BEVs, as one of the high-tech industries that are encouraged for development.

(2) 2010 State Council Decision on Accelerating the Development of Strategic Emerging Industries:

In this document, the Chinese government identifies the NEV industry as a priority for upgrading and has communicated the central government's emphasis on this sector to all levels of government, thereby clearly supporting other policies related to this industry.

(3) Energy-saving and New Energy Vehicle Industry Development Plan (2012-2020):

The plan details the government support available to the NEV industry, including assistance related

to international standard-setting, recruitment, and talent training, as well as various forms of financial support.

(4) Guiding Opinions on Accelerating the Promotion and Application of New Energy Vehicles:

In this document, which includes top-down instructions for local governments to formulate plans for NEV incentives and for central and local government authorities to allocate funds to reward cities and enterprises that effectively promote NEVs.

(5) Regulation on the Standards of the Automotive Power Battery Industry:

The European Commission also found that the "Standards Regulation" sets out several basic conditions that automotive power battery enterprises must meet to be included in the enterprise directory to receive relevant policy support.

(6) Action Plan for Promoting the Development of the NEV Battery Industry:

The formulation of this plan aims to elevate the national research and development capabilities and standards for automotive power batteries, thereby fostering the healthy and sustainable development of the NEV industry.

(7) The Chinese 14th National Five-Year Plan (2021-2026):

Building upon the foundation of Made in China 2025, the 14th Five-Year Plan demonstrates that the Chinese government's prioritization and support for policies in the NEV sector continue unabated and, in fact, are growing.

(8) New Energy Vehicle Industry Development Plan (2021-2035):

The plan specifies concrete steps to be taken to develop NEV industry. Some of these steps anticipate broad horizontal support for the industry, such as implementing tax incentive policies related to new energy vehicles. Others focus on specific components or individual elements of the NEV value chain.

(9) The NDRC's Implementation Opinions on Strengthening New Energy Vehicles:

Released in January 2024, the implementation opinions encompass not only vehicle-grid interaction but also emphasize encouraging innovation and unifying standards in the NEV sector.

(10) Provincial and Municipal Plans:

The "New Energy Vehicle Industry Development Plan (2021-2035)" are further refined and implemented at the local level, translating into more detailed and specific initiatives. For instance, the 14th Five-Year Plan's NEV-related strategies are exemplified by Guangdong Province's 14th Five-Year Plan for High-Quality Development of the Manufacturing Industry in Guangdong Province, which proposes region-specific controls for the NEV industry layout based on local characteristics. Similar policy plans have been adopted by provinces and cities such as Anhui, Guizhou, Beijing, Tianjin, Jiangsu, and Shaanxi.

Additionally, leading NEV companies, particularly pure electric vehicle manufacturers, are often identified as exemplars for government support to further develop the industry. For instance, the Pingshan District New Energy Vehicle Industry Brand Development Plan in Shenzhen designates BYD and Skywell New Energy Vehicle Group as bases for implementing the "headquarters R&D + high-end manufacturing" layout.

(11) Automotive Industry Stable Growth Work Plan (2023-2024):

This plan includes directives to enhance policy support for NEVs, such as encouraging the establishment of automotive industry development funds using social capital and increasing support for the research and development of core technologies.

From the 11 documents above, the European Commission concludes that these documents and plans provide substantial evidence that the Chinese government supports the accelerated development of the BEV industry.

## 4.2 Calculation of Subsidies

For different types of subsidy forms, the European Commission has provided distinct calculation methodologies, which will be introduced one by one in this section:

### (1) Preferential Financing

#### (a) Loans:

In calculating the subsidy amounts in this regard, the European Commission reanalyzed the financial reports of the three companies, then rerating the sampled companies' credit rate and compare it with the previous data. If difference occurs then the commission may have to use the data available to calculate the difference. The subsidy rate established for this specific scheme was 0.16% for BYD group, 0.81 % for Geely group, and 1.38 % for SAIC group.

#### (b) Credit Lines:

In its calculations, the Commission took into account credit lines that were opened or renewed prior to the investigation period but remained available to the sampled group during the investigation period, as well as credit lines opened during the investigation period.

#### (c) Bank Acceptance Bills:

The Commission determined that the amount of subsidy received by the beneficiaries in this regard is the difference between the amount actually paid by the company as a fee for financing through bank acceptance bills and the amount that should be paid using the short-term financing interest rate.

#### (d) Bill Discounting:

The subsidy benefit should be calculated as the difference between the actual discount rate paid and the amount that would have been paid using the short-term financing interest rate.

### (2) Support in the Form of Capital Investment

#### (a) Debt-to-Equity Swaps:

The committee considered this action equivalent to interest-free loan financing. Consequently, the committee will follow the methodology used for calculating benefits from loans.

#### (b) State Capital Injections:

The enterprises that accepted state capital injections primarily include Geely Group and SAIC Motor Corporation. The commission confirmed that state capital injections essentially functions as an interest-free loan in both company. Therefore, the same calculation method mentioned above for loan subsidies was applied in determining the subsidy amount.

#### (c) Bonds:

For these companies who applies bonds as a method to loan, the subsidy amount was calculated based on publicly available information, including bond amounts, start and end dates, and interest rate data in financial statements, as well as data released to securities exchange investors.

Based on the various types of other financing instruments described above, the subsidy rates established for this specific scheme were 3.60% for the BYD group, 3.30% for the Geely group, and 8.27% for the SAIC group.

### (3) Subsidy Programs

#### (a) Direct Cash Grants:

The calculation method for this subsidy benefit is as follows: For grants received during the investigation period, the amount received is directly considered as the subsidy amount. For grants received before the investigation period, if related to fixed assets, the depreciation is calculated based on the useful life of the fixed assets, and the depreciated portion is included in the subsidy amount for the investigation period. The subsidy rate established for this specific scheme was 0.61% for BYD group, 2.31 % for Geely group, and 8.56 % for SAIC group.

#### (b) Fiscal Subsidy Policy for the Promotion and Application of New Energy Vehicles:

The subsidy benefit amount during the investigation period is determined based on the BEV

disbursements received by the sampled producers under the program during the investigation period. The subsidy rate established for this specific scheme was 2.18 % for BYD group, 2.14 % for Geely group, and 2.28 % for SAIC group.

(4) Government Provision of Goods and Services at Less Than Adequate Remuneration (LTAR)

(a) Government Provision of Land Use Rights at Below-Market Prices

In calculating the subsidy amount, the committee employed the methodology used in previous investigations, using the average land prices in Taipei (calculated per square meter) and adjusting for inflation and GDP growth. The subsidy amount was calculated by considering the difference between the actual prices paid by the sampled exporting producers for land use rights and the benchmark prices in Taipei. The subsidy rate established for this specific scheme was 1.20% for BYD group, 0.84 % for Geely group, and 0.67 % for SAIC group.

(b) Government Provision of Batteries and Key Battery Raw Materials (i.e., Lithium Iron Phosphate) at Below-Market Prices:

In this case, the committee chose to use material prices from Bloomberg New Energy Finance (BNEF) and Benchmark Mineral Intelligence (BMI) as benchmarks. Based on the fact available, the committee used the aforementioned LFP and NMC battery cell benchmark prices and applied the cell-to-pack ratio based on publicly available BNEF information to calculate the benchmark price for battery packs.

Taking Geely Group as an example, the subsidy benefit was calculated by comparing the actual prices paid by the sampled exporting producers for batteries (cells, modules, and packs) with the amounts that should have been paid based on the benchmark prices. The subsidy rate established for this specific scheme was 10.32% for Geely Group.

The committee found that LFP suppliers were endowed with governmental authority and performed governmental functions. The committee concluded that the GOC created an environment where LFP was provided at less than adequate remuneration to vertically integrated BEV manufacturers and battery producers (such as CATL), which acted as public bodies implementing government policies. Therefore, the committee determined that battery associations, their members, and all other battery and lithium suppliers should also be considered public bodies within the meaning of Article 1.1(a)(1) of the ASCM, as they had no choice but to comply with the GOC's policy objectives favoring BEV manufacturers.

In calculating the subsidy, BYD's benefit was calculated by comparing the domestic prices with the export prices from China. The subsidy rate established for this specific scheme is 7.35% for BYD Group.

(5) Government Revenue Forgone through Tax Exemptions and Reduction Schemes

The benefit to the recipients is equivalent to the amount of tax savings.

(a) Corporate Income Tax (CIT) Reductions for High-Tech Enterprises:

The benefit is calculated as the difference between the total tax payable at the normal rate and the total tax payable at the preferential rate. The subsidy rate established for this specific scheme was 0, 36 % for BYD group.

(b) Pre-Tax Deduction for Research and Development (R&D) Expenditure:

The benefit is calculated as the difference between the total tax payable at the normal rate and the tax payable after deducting an additional 100% of the actual R&D expenditure. The subsidy rate established for this specific scheme was 0, 57 % for BYD group, 0,03 % for Geely group, and 1,53 % for SAIC group.

(c) Tax Exemption for Dividend Distribution among Qualified Resident Enterprises:

In calculating the subsidy amount, the committee applied the normal tax rate to the dividend income that had been deducted from the taxable income. The subsidy rate established for this specific scheme was 0, 17 % for Geely group, and 1,09 % for SAIC group.

(d) Pre-Tax Deduction for Technology Transfer Income:

In the calculation, the committee determined the subsidy amount by applying the normal tax rate to the technology transfer income that had been deducted from the taxable income. The subsidy rate established for this specific scheme was 0, 05 % for the Geely group.

(e) Exemption from Battery Consumption Tax:

The benefit is determined by applying the normally applicable 4% consumption tax rate to the value of batteries purchased during the investigation period.

Furthermore, in light of the previously discussed methodology for calculating subsidies only related to the provision of batteries at less than adequate remuneration. The subsidy rate established for this specific scheme was 1, 37 % for the BYD group.

Based on the calculation methods described above, the European Union ultimately determined the overall subsidy rates for each of the three groups, The final subsidy rate was 17.4 % for BYD group, 19.9 % for Geely group, 37.6 % for SAIC group, 20.8% for other cooperating companies and 37.6% for all the other companies.

### **4.3 The subsidy program has resulted in material injury as well as the threat of material injury**

(1) Identification of Material Injury to the Industry:

The commission examines structural challenges facing EU automotive industry during its transition from internal combustion engine vehicles (ICE) to BEVs (2019-2023). The data from the commission shown that EU market consumption surged 200% (182% in registration-based terms), Chinese BEV imports escalated exponentially from 21,000 to 412,000 units, capturing 25% market share by 2023. Concurrently, EU domestic production and sales expanded 198% and 150% respectively, yet failed to match consumption growth, causing market share contraction from 68.9% to 59.9%.

The European Commission's analysis identifies material injury manifestations: persistent market share erosion, suppressed profit margins, and impaired reinvestment capacity. These factors collectively jeopardize the viability of ICE-to-BEV transition. Empirical evidence confirms Chinese imports contributed substantially to price undercutting and investment chilling effects. Regulatory scrutiny now focuses on whether sustained import growth could derail strategic decarbonization objectives through industrial capacity degradation.

Findings underscore the critical juncture in EU automotive restructuring, where import competition intersects with capital-intensive technological transformation, creating compounded vulnerability for domestic producers.

(2) Identification of Threat of Material Injury to the Industry:

The current state of EU industry is such that the substantial investments required for market transition cannot be recouped through necessary sales, a situation that may be further exacerbated by the continuously increasing imports of subsidized BEVs from China. These imports are growing at a significant rate and are characterized by low prices that suppress market prices. Moreover, the Chinese government has specifically targeted EU market, as it is the only major open global market. The imminent threat of material injury further jeopardizes EU industry's ability to increase production and sales during the transition from ICE vehicles to BEVs.

At the end of the investigation period, the Commission observed that the profitability trends of EU industry began to deteriorate, and market share continued to decline throughout the investigation period. These factors suggest that, in the absence of any countervailing measures, EU industry is likely to suffer significant losses. Furthermore, the market share of EU industry has been consistently declining throughout the investigation period, reaching its lowest point at the end of the investigation.

Therefore, based on the aforementioned factors, the European Commission, in accordance with



Article 8(8) of BASR, has made a provisional determination of the threat of material injury.

## **5. Analysis of Results and Potential Countermeasures from China**

### **5.1 Pertaining to Legal Provisions**

Empirical analysis refutes the European Commission's characterization of China's NEV policies as market-distorting interventions. While China maintains an extensive regulatory framework, these measures primarily serve industrial modernization objectives rather than competitive manipulation. Three structural features demonstrate the developmental nature of these policies:

#### **5.1.1 Technology-Driven Market Formation**

Fiscal incentives and infrastructure investments (2015-2025) reduced consumer acquisition costs by 32-41%, accelerating NEV adoption from 1.3% to 40.4% market penetration (2015-2024). Concurrent R&D investments yielded 18% annual efficiency gains in battery energy density, establishing technical parity with global competitors.

#### **5.1.2 Globally Integrated Policy Design**

Provincial implementations like Anhui's Industrial Cluster Regulations (2023) explicitly mandate compliance with WTO TBT agreements, while fostering international R&D partnerships (e.g., 47 joint ventures with EU automakers 2020-2024). This aligns with China's export-led growth strategy, evidenced by plug-in hybrid exports increasing 278% since EU tariff implementations (2022).

#### **5.1.3 Adaptive Regulatory Evolution**

Subsidy phase-outs (2021-2023) decreased direct fiscal support from ¥150B to ¥32B annually, correlating with sustained private investment growth. Market-driven dynamics now dominate, with 2024 NEV sales exceeding 12.86 million units despite reduced government participation.

Contrary to allegations of market distortion, China's policy architecture demonstrates:

- (1) Non-discriminatory implementation: Foreign OEMs received 39% of NEV purchase subsidies (2018-2022).
- (2) Competitive parity: Domestic brands maintain 2-4% price premiums over comparable imports.
- (3) Innovation spillovers: 68% of global NEV-related patents originate from Chinese entities (WIPO, 2023).

This evidence base suggests China's NEV strategy constitutes legitimate industrial policy under WTO Article 8.2(c), focused on sectoral modernization rather than trade distortion. The observed 14.2% annual export growth (2020-2024) reflects competitive advantages from scale economies (56% global battery production share) rather than artificial price manipulation.

### **5.2 Policy Interventions for Consumer Subsidy Schemes**

If a consumption subsidy is predicated on domestic consumption and does not distort export behavior or the export market, then the subsidy itself is not subject to the regulation of the WTO. However, in certain circumstances, consumption subsidies may be accompanied by local content requirements, thereby posing a risk of violating WTO rules. For instance, the localization requirements in the U.S. Inflation Reduction Act have sparked widespread controversy.

Moreover, the current international trade rules pay relatively less attention to consumption subsidies. For example, in the joint report titled Subsidies, Trade, and International Cooperation



issued by the IMF, OECD, World Bank, and WTO, it is explicitly stated that consumption subsidies are generally unrelated to the international market. In fact, consumption subsidies for NEVs are widely prevalent globally. For example, the US Inflation Reduction Act stipulates that American consumers purchasing eligible new energy vehicles can enjoy a maximum tax credit of \$7,500.

In this case, although the Chinese government specifically emphasized in that "the beneficiaries of the subsidies are consumers". It still may cause misunderstanding of the operational methods by EU side. In the aforementioned document, while it is emphasized that the beneficiaries of the subsidies are consumers, it is also mentioned that when selling new energy vehicles, manufacturers will first deduct the subsidy amount and settle with consumers at the subsidized price. Furthermore, in accounting entries, this part of the content may be recorded as "government subsidies." Therefore, misunderstandings can easily arise in this regard.

To avoid the recurrence of such issues, the government should ensure the comprehensive disclosure of information regarding the background, basis, objectives, scope of application, and implementation standards of subsidy policies, to prevent misunderstandings caused by information asymmetry, that is, to increase transparency. At the same time, in the implementation of relevant policies, standardized procedures should be established in the application, review, and disbursement of funds to ensure that operations are standardized and transparent. The accounting treatment of subsidy funds should be clarified to avoid misunderstandings. For example, the specific accounts and accounting methods for subsidy funds in enterprise books can be explicitly defined. After the policy is issued, the specific content and operational procedures of the subsidy policy should be promptly explained to enterprises and the public through forms such as press conferences and policy interpretation meetings. For policies with strong professionalism, the content should be interpreted in simple and understandable language combined with examples to avoid misunderstandings.

### 5.3 Regarding the Rapidly Growing Market Share of Chinese BEV Enterprises in the European Union

In the preceding discussion, EU has asserted that the alleged material injury to EU market, attributed to Chinese BEV enterprises caused declination of the market share held by EU-based BEV companies. However, the actual cause of this outcome is related to EU's own policies, specifically the purchase subsidy policies for new energy vehicles promulgated by EU. As illustrated in Figure 2, these policies have had a significant impact on the market dynamics [8].

Country Name	Low-price acquisition incentives
France	Bonus for a new BEV or FCEV: €5,000 for households, if vehicle ≤ €47,000 €3,000 for legal persons, if vehicle ≤ €47,000 Scrapage scheme for a second-hand or new BEV or FCEV of ≤ €47,000: up to €6,000, based on income.
Germany	As of 1 January 2023, funding is only available for new and used BEVs and FCEVs. One-third of the funding is provided by the industry and two-thirds by the government. Bonus for new cars with a net list price ≤ €40,000: €6,750 Bonus for new cars with a net list price > €40,000 and ≤ €65,000: €4,500 From 1 September 2023, only private individuals will be able to apply for funding. From 1 January 2024, reduction in funding and stricter requirements.
Italy	€3,000 (€5,000 with scrappage) for a BEV/ PHEV emitting ≤ 20g CO <sub>2</sub> /km and with a selling price of ≤ €35,000 + VAT. €2,000 (€4,000 with scrappage) for a BEV/ PHEV emitting 21–60g CO <sub>2</sub> /km and with a selling price of ≤ €45,000 + VAT.
Netherland	Subsidy scheme (SEPP) for individuals to buy/ lease a small or compact BEV car, new or used. Arbitrary depreciation of environmental investments scheme (Vamii) for FCEV cars or taxis and BEV cars equipped with solar panels
Spain	Incentive scheme (MOVES III) in 2021–2023: Cars (M1): €4,500–7,000 for BEVs and FCEVs, and €2,500–5,000 for PHEVs, for private individuals, depending on whether a vehicle is being scrapped Different incentives for SMEs and large companies (+ MOVES FLOTAS)

Figure 2: Low-Cost Acquisition Measures Issued by Selected European Countries

During the investigation period by European Commission, the countries that implemented low-cost acquisition measures accounted for approximately half of the market share retention and growth among EU-based NEV enterprises [9]. Which is shown in Figure 3.

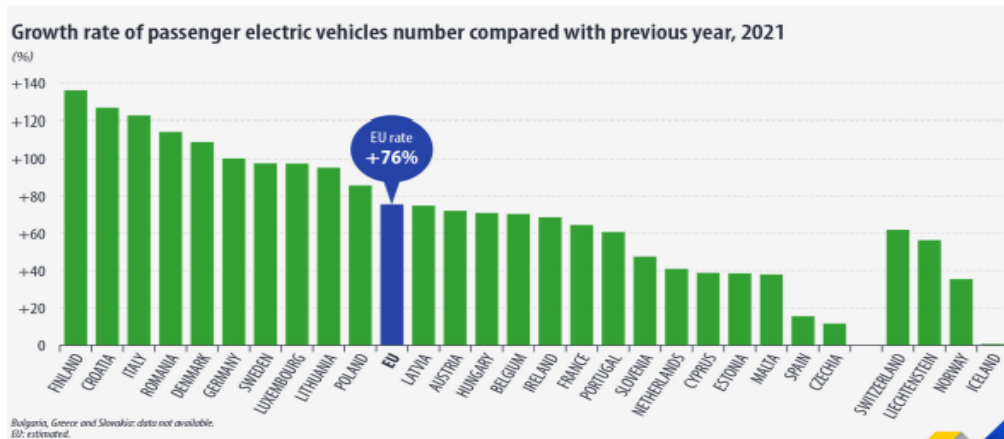


Figure 3: Market Growth Share of Electric Vehicle Enterprises in the European Union (2021-2022)

From the figure above, it is not difficult to observe that EU has employed relevant purchase subsidy policies to incentivize the adoption or purchase rate of BEV vehicles, and the results have been effective. Even without subsidy policies, the domestic prices of Chinese BEV vehicles are significantly lower than those in Europe and the United States[10].

Globally, the primary factor motivating consumers to purchase electric vehicles remains the price, as evidenced by various government-issued subsidies and tax incentives. Therefore, when it comes to purchasing electric vehicles, price becomes a crucial deciding factor. If the price is sufficiently low, consumers are more likely to prioritize it over other considerations. Given this context, coupled with the fact that Chinese manufacturers can offer similar products at lower prices, it becomes evident why Chinese BEV enterprises have been able to rapidly capture market share in Europe.

#### 5.4 Regarding the Attitude towards Investigation Cooperation

In Section 4.3 on the calculation of subsidies, it is evident that the European Union frequently relies on available existing data as the basis for computation, rather than utilizing actual data from the sampled enterprises and the Chinese government. The European Commission cites the Chinese government's unilateral "non-cooperative" behavior as the reason, alleging that the Chinese government and enterprises fail to "cooperate", resulting in the absence of certain data required by the European Commission.

Such evasive cooperation attitudes are not uncommon in past cases. However, this is perceived by EU as a "passive" defense attitude, which may lead to the imposition of high countervailing duties. Moreover, these enterprises face the impact of high costs for at least five years when entering the European market also some European importers may choose to collaborate with other enterprises to reduce costs. It may also pose more challenges for these enterprises during the periodic review process.

Take EU's anti-dumping case against Chinese steel fasteners as an example [7]. In this case, enterprises that did not cooperate with the investigation were ultimately subject to an anti-dumping duty rate as high as 86.5%, three times higher than the lowest rate (22.1%) obtained by Chinese enterprises that participated in the defense.

The Chinese side, however, explains its stance by expressing concerns over the potential leakage of state and commercial secrets. Although the EU claims to ensure confidentiality regarding these

aspects in its countervailing duty questionnaires, the security of such information remains uncertain. Moreover, the final report does not provide specific formulas for the calculation of the relevant subsidy rates.

In the future, when encountering similar issues, the Chinese government should actively engage in communication with EU to explain the complexity and compliance of its policies, ensuring that EU understands the difficulties or limitations in providing relevant data. Enterprises, on the other hand, should closely cooperate with the government in responding to countervailing duty investigations. When completing questionnaires, enterprises must ensure the accuracy and completeness of the data provided and submit the questionnaires on time. The government should coordinate with enterprises to ensure that data aggregation and submission meet the requirements of the investigation. If EU's investigation demands are unreasonable or exceed the scope permitted by Chinese law, the Chinese government can, in accordance with international rules and legal frameworks, initiate a dispute settlement action at the WTO, rather than relying solely on EU Commission's investigation process.

## 6. Conclusion

This paper systematically examines EU's countervailing duty investigations against Chinese EV producers through legal, procedural, and evidentiary lenses, proposing strategic countermeasures through three critical findings:

### (1) Policy Intent vs. Market Effect Disconnect

NEV policies prioritize industrial modernization through: Consumer-focused fiscal instruments (2016-2020 subsidy framework reduced purchase costs by 18-24%); Supply-chain development (battery innovation driving 22% annual cost reductions); Infrastructure standardization (1.2 million public chargers deployed by 2023). Contrary to EU allegations, these measures align with WTO-permitted domestic support (GATT Article III) given their non-export contingent design.

### (2) Regulatory Asymmetry in Subsidy Evaluation

While EU challenges China's subsidy mechanisms, its own market-distorting practices remain unaddressed: €6,000-9,000 per vehicle purchase incentives in key EU markets; State-backed battery consortiums receiving €3.2 billion in public funding ; The investigation's selective application of ASCM Article 1.1(a)(1) violates non-discrimination principles through flawed "public body" designation of Chinese firms.

### (3) Competitive Dynamics Misrepresentation

Market data contradicts injury claims: Chinese EVs maintain 12-18% price premiums over EU counterparts in premium segments; EU producers increased BEV market share from 54% to 61% (2020-2023); Chinese imports constitute <7% of total EU BEV registrations (2023).

Strategic recommendations include: Enhanced policy transparency through WTO-notified technical assistance programs; Bilateral consultation mechanisms to resolve subsidy measurement disputes; WTO dispute settlement invocation (DSU Article 4) against discriminatory investigation methodologies.

The analysis confirms China's NEV framework constitutes legitimate development policy under WTO rules, with observed market effects deriving from comparative advantages in battery technology (56% global production share) and vertical integration efficiency (32% cost advantage over EU peers).

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