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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**34th Annual Report from the Commission to the European Parliament and the Council  
on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2015)**

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## INTRODUCTION

This is a report of the European Union's anti-dumping, anti-subsidy and safeguard activities during 2015. It is presented to the European Parliament and the Council in line with the provisions of Article 23 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ('basic anti-dumping Regulation'), Article 34 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('basic anti-subsidy Regulation') and Article 23 of Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports.

The anti-dumping (AD), anti-subsidy (AS) and safeguard (SFG) investigations conducted by the Commission are governed by the above mentioned Regulations. A comprehensive overview of the existing legislation, terminology and procedures is available in the accompanying Staff Working Document.

This short report provides an overview of the highlights in the area of Trade Defence in the EU during 2015 and is accompanied, as in previous years, by a Commission Staff Working Document, together with detailed annexes. This report follows the same general structure of the Staff Working Document, including all its headings, for easy reference to more comprehensive information.

The present report and the Staff Working Document are also available to the public at [http://ec.europa.eu/trade/issues/respectrules/anti\\_dumping/legis/index\\_en.htm](http://ec.europa.eu/trade/issues/respectrules/anti_dumping/legis/index_en.htm) .

### **1. OVERVIEW OF ANTI-DUMPING, ANTI-SUBSIDY AND SAFEGUARD INVESTIGATIONS AND MEASURES**

#### **1.1. General**

The number of measures in force has shown a slight increase over the previous year while the number of ongoing investigations at the end of the year corresponded to the end of 2014. While the number of new cases initiated decreased slightly the number of reviews initiated was significantly up over 2014. Almost a quarter of these reviews were anti-circumvention cases.

At the end of 2015, the EU had 87 AD measures and 11 AS measures in force.

In 2015, 0,25% of total imports into the EU were affected by AD or AS measures.

A detailed overview is given in the Staff Working Document accompanying this report. The references to the Annexes of the Staff Working Document can be found beside the titles.

#### **1.2. New investigations (see Annexes A through E and Annex N)**

In 2015, 14 new investigations were initiated. Provisional duties were imposed in ten proceedings. 11 cases were concluded with the imposition of definitive duties. Three investigations were concluded without measures.

### **1.3. Review investigations**

Review investigations continue to represent a substantial part of the work of the Commission Trade Defence services. Table 2 in the Staff Working Document provides statistical information for the years 2011-2015.

#### *1.3.1. Expiry reviews (see Annex F)*

Articles 11(2) of the AD and 18 of the AS Regulations provide for the expiry of measures after five years, unless an expiry review demonstrates that they should be maintained in their original form. During 2015, four measures expired automatically following their five year duration.

During 2015, 13 expiry review investigations were initiated. 13 expiry reviews were concluded with a confirmation of the duty for a further period of five years. Two expiry reviews were concluded by the termination of measures.

#### *1.3.2. Interim reviews (see Annex G)*

Articles 11(3) of the AD and 19 of the AS Regulations provide for the review of measures during their period of validity. Reviews can be limited to dumping/subsidization or injury aspects.

During 2015, a total of 11 interim reviews were initiated. Six interim reviews were concluded with confirmation or amendment of duty. No interim review was concluded with the termination of the measures.

#### *1.3.3. "Other" interim reviews (see Annex H)*

There were two 'other' reviews, i.e. not falling under Articles 11(3) of the AD or 19 of the AS Regulations, concluded in the period. There were no such reviews initiated.

#### *1.3.4. New exporter reviews (see Annex I)*

Articles 11(4) of the AD and 20 of the AS Regulations respectively provide for a "newcomer" and "accelerated" review in order to establish an individual dumping margin or an individual countervailing duty for new exporters located in the exporting country in question which did not export the product during the investigation period. Such exporters have to show that they are genuine new exporters and that they have actually started to export to the EU after the investigation period. As such, an individual duty, which is usually lower than the country-wide duty, can be calculated for them.

In 2015, one new exporter review was initiated while one such review was concluded.

#### *1.3.5. Absorption investigations (see Annex J)*

Where there is sufficient information showing that, after the original investigation period and prior to, or following the imposition of measures, export prices have decreased or that there has been no or insufficient movement in the resale prices or subsequent selling prices of the imported product in the EU, an "absorption" review may be opened to examine whether the measure has had effects on the above-mentioned prices. Dumping margins may as such be recalculated and the duty increased to take account of such lower export prices. The possibility of "absorption" reviews is included in Articles 12 of the AD and 19(3) of the AS Regulations.

In 2015, no anti-absorption review was initiated and two were concluded with an increase of duty.

*1.3.6. Circumvention investigations (see Annex K)*

The possibility of investigations being re-opened in circumstances where evidence is brought to show that measures are being circumvented is provided for in Articles 13 of the AD and 23 of the AS Regulations.

In 2015, seven such investigations were initiated. There were four anti-circumvention investigations concluded with extension of the measures.

**1.4. Safeguard investigations (see Annex L)**

During 2015 there was no safeguard activity in the EU.

**2. ENFORCEMENT OF AD/AS MEASURES**

**2.1. Follow-up of measures**

The follow-up activities concerning measures in force were centred on four main areas: (1) to pre-empt fraud; (2) to monitor trade flows and market developments; (3) to improve the effectiveness with the appropriate instruments and (4) to react to irregular practices. These activities enabled the Commission to pro-actively in cooperation with Member States ensure the proper enforcement of trade defence measures in the European Union.

**2.2. Monitoring of undertakings (see Annexes M and Q)**

Monitoring of undertakings forms part of the enforcement activities, given that undertakings are a form of AD or AS measures. They are accepted by the Commission if it is satisfied that they can effectively eliminate the injurious effects of dumping or subsidisation.

At the beginning of 2015, there were 129 undertakings in force. During 2015, the following changes to the portfolio of undertakings took place: The undertakings of six companies were withdrawn as it was established that breaches had occurred or that the monitoring of the undertakings became impracticable. The undertaking for one company expired. No new undertaking was accepted. This brought the total number of undertakings in force at the end of 2015 to 122.

**3. REFUNDS**

Articles 11(8) of the AD and 21(1) of the AS Regulations allow importers to request the reimbursement of the relevant collected duties where it is shown that the dumping/subsidy margin has been eliminated or reduced to a level below that of the duty in force.

During 2015, 45 new refund requests were submitted. At the end of 2015, nine refund investigations were on-going, covering 79 requests. In 2015, 14 Commission Decisions were adopted: 13 granting a partial refund and one rejecting the refund requests. Three requests were withdrawn.

#### **4. TDI MODERNISATION**

Following the adoption of a legislative proposal and a communication by the Commission in April 2013, the modernisation proposal entered the ordinary legislative procedure in Council and Parliament.

The aim of the modernisation exercise was to adapt the trade defence instruments (TDIs) to current business realities. It focused on finding practical solutions to real problems which stakeholders encounter in the use of the instruments. Thus, the TDIs would become more accessible and measures better targeted responses to certain unfair trading practices exercised by our trading partners. Other important elements were increased transparency, particular attention to SMEs, while keeping the balance of interests an essential feature.

The Parliament voted a legislative resolution in April 2014 and thus closed its first reading on the TDI modernisation proposal. It has been ready to enter into trilogues since then. However, the Council has not been able to find a compromise, despite the efforts, in particular, of the Italian presidency of the Council in the second half of 2014. The main stumbling block was the partial non-application of the lesser duty rule in cases of raw material distortions. Mainly over this issue, the Council remained divided between Member States favouring producing interests and Member States favouring importing interests.

In 2015, in the context of the steel crisis, interest in the modernisation file in the Council was revived. The Commission presented further ideas in order to facilitate agreement among Member States and in view of the Council starting trilogues with the Parliament.

#### **5. COUNTRY-WIDE MARKET ECONOMY STATUS (MES)**

The current practice is that a country can be considered a market economy for the purposes of anti-dumping investigations if it fulfils five criteria as set out in the Staff Working Document accompanying this report. Six countries have requested country-wide MES: China, Vietnam, Armenia, Kazakhstan, Mongolia and Belarus.

In 2015 no consultations took place between the EU and China to examine whether or not the country meets the remaining four MES criteria (the second criterion was considered fulfilled in 2004). Since 2012 China has not engaged in this process. This lack of engagement in this process is interpreted as a sign that China expects that as from December 2016, the EU will change the methodology used for calculating dumping margin in cases concerning that country. During 2015 the Commission started its examination of the implications of the expiry of certain provisions of Section 15 of China's Protocol of Accession to the WTO. The analysis of the legal, economic and political issues surrounding this issue continued throughout 2015. This provided the basis for a discussion by the College in an orientation debate early in January 2016 where it was decided to launch an Impact Assessment and public consultation on the matter. The Commission continues work on the future policy in light of the expiry of certain provisions of China's Protocol of Accession to the WTO.

In June 2015 the Commission services shared an assessment report with Vietnam on its progress in relation to MES, in which the third criterion was considered as being fulfilled. The report also concluded that, despite some progress in relation to the other criteria, it was not sufficient to justify the granting of any of the remaining three (the first criterion was considered fulfilled in 2013)

In 2015, further analysis was conducted on Kazakhstan's MES request on the basis of information provided on developments in the economy there. This analysis will continue into 2016 as there were developments in the Kazakhstan economy during 2015 itself in the economy which will be analysed in the ongoing assessment.

In March 2015, Mongolia submitted updated information regarding developments in its economy. The analysis of the information received continued in 2015. However, the analysis was not updated as information regarding the remaining criteria was not complete.

In October 2015, Armenia responded to questions which the Commission had sent the previous December seeking additional information and clarification on developments in the economy in order to update the MES assessment. The assessment on the file continued in the last quarter of 2015 on the basis of the new information received. Armenia had already met, in 2010, two criteria, namely criterion one as well as criterion five. However further work on their MES request was on hold between 2010 and 2014 when the country prioritised the DCFTA negotiations with the EU rather than the question of MES. Only in February 2014, did Armenia ask to revive the process

As regards Belarus there was no progress on this file in 2015.

## **6. INFORMATION AND COMMUNICATION ACTIVITIES/ BILATERAL CONTACTS**

### **6.1. Small and medium sized enterprises (SMEs)**

During 2015 the SME Helpdesk continued to deal with requests for information relating to the trade defence instruments. This helpdesk had been set up in 2004 as a response to the difficulties which SMEs face, owing to their small size and resource constraints, when dealing with the complexities of trade defence investigations. The assistance offered to SMEs by the helpdesk covered specific case related queries as well as provisions on both procedural and substantial elements of anti-dumping and anti-subsidy proceedings.

### **6.2. Bilateral contacts/information activities – industry and third countries**

Explaining the legislation and practice of the EU's trade defence activity is an important part of the work of the TDI services.

The Commission organized one training seminar on trade defence for officials from several third countries in 2015 (Participants from India, Vietnam, Jordan, Tunisia and Japan). In addition, there were a number of other bilateral contacts dedicated to discussing various trade defence topics with a number of third countries including China, Japan, Australia, Brazil, Mexico, Turkey, USA, Russia (Eurasian Commission).

During 2015, the trade defence services both hosted and participated in meetings with various key stakeholder organisations, including Business Europe as well as specific representative sector associations.

**7. JUDICIAL REVIEW: DECISIONS GIVEN BY THE COURT OF JUSTICE (COJ) / GENERAL COURT (GC) (SEE ANNEX S)**

In 2015, the General Court ('GC') and the Court of Justice ('COJ') rendered 27 judgments in total relating to the areas of anti-dumping or anti-subsidy. Two of the judgments of the CoJ concerned appeals against the General Court decisions.

There were 20 new cases lodged in 2015. Five of these were lodged before the GC and 15 before the CoJ.

A list of the AD/AS cases before the GC and the COJ still pending at the end of 2015 is given in Annex S of the Staff Working Document.

**8. ACTIVITIES IN THE FRAMEWORK OF THE WORLD TRADE ORGANIZATION (WTO)**

**8.1. Dispute settlement in the field of AD, AS and SFGs**

The WTO provides for a rigorous procedure for the settlement of disputes between WTO Members concerning the application of the WTO agreements.

Two panels were composed in 2015, i.e. the panel concerning anti-dumping measures on imports of biodiesel from Indonesia (DS480) and the panel regarding anti-subsidy measures imposed on polyethylene terephthalate from Pakistan (DS486). Regarding the latter Pakistan insisted on the continuance of the proceeding despite the expiry of the measures subject to the dispute. The first substantive meeting of the panel took place in the dispute concerning anti-dumping measures imposed on fatty alcohols from Indonesia (DS442). In DS397 (compliance procedures following the WTO dispute relating to EU definitive anti-dumping measures on certain iron or steel fasteners from China), the Panel issued its report in August 2015 which was appealed, both by the EU and China. One dispute proceeding requested by Russia on cost adjustment methodologies and certain anti-dumping measures was suspended on Russia's request (DS474) while they instigated a second such proceeding on the same issues during 2015 (DS494). The dispute requested by Indonesia on anti-dumping measures on biodiesel (DS480) was suspended pending the outcome of the dispute with Argentina also relating to measures on biodiesel (AD473) on which the Panel's interim report was issued in December 2015.

**8.2. Other WTO activities**

With regard to negotiations in the WTO, efforts were made in 2015 to advance on WTO rules as part of the process of preparing the 10th WTO Ministerial Conference. This process covered all four rules areas, including anti-dumping and horizontal subsidies, and focused on the question of improving transparency. The European Union tabled a submission on the subject on 10 July 2015 followed by a technical paper in September. On horizontal subsidies the EU ideas foresaw improving the WTO's counter-notification mechanism under which WTO Members would be able to provide missing information with regard to the notifications of other Members. On anti-dumping, the EU suggested introducing a review mechanism of WTO Members' anti-dumping policies and practices, based on a report prepared by the WTO secretariat. While there was some interest among WTO Members to advance discussions on how to improve transparency regarding anti-dumping procedures, negotiations remained stalled. Ultimately, the 10th WTO Ministerial Conference held in Nairobi on 15-18 December 2015 did not take any decisions regarding rules

negotiations. Nevertheless, rules issues are expected to be taken up as part of the post-Nairobi process.

The Technical Group, a subgroup of the Negotiating Group, was convened twice during the year. The group discussed a number of issues relating to the practical aspects of conducting anti-dumping investigations including the treatment of confidential files, use of the lesser duty rule as well as the public interest test.

In 2015, in line with its WTO obligations, the EU submitted a full notification to the WTO of the subsidies granted both at EU and individual Member State level. Review of this 2015 notification started in the second of the two special sessions of the Subsidies and Countervailing Committee which are held every year. In parallel to these activities, participation by the Commission services in the regular work of the Anti-dumping, Subsidies and Countervailing and Safeguards Committees continued. In October 2015, in the Implementation Group which is a sub-group of the Anti-dumping Committee, many Members shared information on administrative and judicial review procedures in their respective jurisdictions. In this context, the EU presented the judicial review framework which is applicable for trade defence in the EU.

## **9. CONCLUSION**

The year 2015 saw a slight decrease in the number of new investigations opened. This was a direct reflection of the number of complaints received from industry that included sufficient evidence to support allegations of injurious dumping or subsidies from EU industry. There was a significant increase in the number of provisional and definitive measures imposed, as well as in the number of review investigations. As was the case with previous years, no safeguard action was taken by the EU.

The Commission TDI services also continued their information activities targeted at third country officials, the Union industry and importers. Despite renewed interest in the Trade Defence Instruments Modernisation initiative, owing to the crisis in the steel sector, and regardless of the continued efforts by the Commission to support progress on this file, there was still no mandate for the Council to start trilogues at the end of 2015. The work on MES assessments for various countries continued during 2015 as well as the preparatory work in relation to the methodology for calculating dumping margins for China post December 2016 when certain provisions of section 15 of China's protocol of Accession to the WTO expire.