



COMMISSION OF THE EUROPEAN COMMUNITIES

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**25<sup>th</sup> ANNUAL REPORT FROM THE COMMISSION TO  
THE EUROPEAN PARLIAMENT**

**on the community's anti-dumping, anti-subsidy and safeguard activities**

**(2006)**

[SEC(2007) 1076]

## INTRODUCTION

This 2006 report is submitted to the European Parliament following its resolution of 16 December 1981 on the Community's anti-dumping activities, and the report of its Committee on industry, external trade, research and energy.

This short report provides an overview of the highlights during 2006, but is supported as in previous years by a more detailed Commission Staff Working Document, together with detailed annexes. The report also follows the same general structure of the Working Document and all its headings can also be found in it so that easy reference for more comprehensive information is possible.

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

This report has to be seen against the general background of EU trade policy as set out more recently in the Commission's Communication on "Global Europe"<sup>1</sup>. In this context the Commission adopted in December 2006 a "Green Paper" inviting a public reflection on how the EU can best use its trade defence instruments (TDI) in a changing global economic context. The results of this process will be reflected in future reports.

### 1. OVERVIEW OF THE LEGISLATION

Anti-dumping (AD), anti-subsidy (AS) and safeguard (SFG) investigations are conducted on the basis of basic Council Regulations. An overview of the existing legislation is given in the Working Document. The basic AD and AS texts will hereafter be referred to as the "basic Regulation(s)".

### 2. BASIC CONCEPTS

Heading 2 in the working document gives an overview of the terminology and procedures used in TDI investigations.

### 3. LAUNCHING OF THE TDI REVIEW PROCESS

Since the last substantial review of the EU's TDI back in 1994, important developments occurred both in the European and global economic context. In order to consider these changes and to see if eventual adaptations are necessary, the Commission published on 6 December 2006 a Green Paper<sup>2</sup> on the functioning of the EU's trade defence instruments and launched a three-month long public reflection process with stakeholders. The Green Paper flows from the recent Communication on external competitiveness.

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<sup>1</sup> COM(2006) 567 final – available on [http://ec.europa.eu/trade/issues/sectoral/competitiveness/global\\_europe\\_en.htm](http://ec.europa.eu/trade/issues/sectoral/competitiveness/global_europe_en.htm)

<sup>2</sup> Europe's trade defence instruments in a changing global economy - A Green Paper for public consultation – COM(2006) 763 final, available on [http://ec.europa.eu/trade/issues/respectrules/anti\\_dumping/comu061206\\_en.htm](http://ec.europa.eu/trade/issues/respectrules/anti_dumping/comu061206_en.htm)

Following the public debate and after having evaluated the replies received, the Commission will communicate the results to stakeholders, draw conclusions and, if appropriate, propose modifications to the EU's trade defence instruments.

#### **4. ENLARGEMENT**

During 2006, the Commission continued to implement an Action Plan to prepare for the accession of Bulgaria and Romania. The Action Plan, set up already in 2005, included a number of activities similar to those that the Commission organized in the area of TDI already in relation to the 2004 EU enlargement (outlined in the 2004 and 2005 annual reports). As before, the aim of these activities was to ensure as smooth as possible the integration of the administrations of the acceding countries in the area of trade defence.

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

Conceptually, the country-wide criteria for determining whether a country can be considered a full market economy for the purpose of AD investigations are inspired from those applicable to individual companies located in economies in transition to a market economy, which are set out in Article 2(7) of the basic Regulation.

Significant work has been done in this respect during 2006. In particular, the Commission services prepared the second assessment of Vietnam's request for MES where it was concluded that Vietnam does not yet fulfil the five criteria to obtain MES.

The People's Republic of China's request was received in September 2003 and a preliminary assessment was carried out by the Commission in June 2004. The high-level MES working group, set up after the EU-China summit in 2005, met twice during 2006 and focussed on reform efforts of China in the field of the accounting and financial sectors. At the EU-China summit in September 2006, both sides expressed their satisfaction over the progress of the market economy status dialogue and the working group. The Commission services agreed at the summit to prepare an update of the 2004 preliminary assessment.

During 2006, the work on MES requests received from Mongolia, Kazakhstan and Armenia continued. The Commission analysed the newly submitted information and followed up with questions on issues that had not been sufficiently addressed in the replies.

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

The Trade Defence Helpdesk for Small and Medium Sized Enterprises (SME), set up in December 2004, continued its activity in addressing specific SME questions/problems regarding the trade defence instruments. The Commission also organised or participated in 9 information seminars for economic operators and third country administrations.

## **7. OVERVIEW OF AD, AS AND SFG INVESTIGATIONS AND MEASURES**

### **7.1. General**

At the end of 2006, the Community had 134 AD measures (see Annex O) and 12 AS measures (see Annex P) in force.

In 2006, 0,6% of total imports into the Community was affected by AD or AS measures.

Please note that details on the issues hereafter are given in the Working Document attached to this report. The references to the Annexes of the Working Document can be found beside the titles.

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

In 2006, 36 investigations were initiated<sup>3</sup>. Provisional duties were imposed in 13 proceedings. Thirteen cases were concluded with the imposition of definitive duties. Eighteen proceedings were concluded without measures. Another nine anti-dumping measures were allowed to expire automatically following their 5-year duration.

### **7.3. Review investigations**

Review investigations continue to represent a major part of the work of the TDI services. They represented more than 63% of all investigations initiated. Table 2 in the Working Document provides statistical information for the years 2002-2006.

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

Articles 11(2) and 18 of the basic 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 2006, 12 expiry review investigations were initiated of which 11 concluded that there was a need for the duties to continue for a further five years. Furthermore, 8 expiry reviews were concluded by termination.

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

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

During 2006, a total of 18 interim reviews were initiated. Eleven interim reviews were concluded with confirmation or amendment of duty and 8 investigations were concluded, thereby terminating the measures.

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<sup>3</sup> Table 1 in the Working Document provides statistical information on the new investigations for the years 2002 – 2006 carried out under the provisions of Articles 5 and 10 of the basic Regulations.

### 7.3.3. “Other” interim reviews (see Annex H)

A series of other reviews, not falling under Articles 11(3) or 19 of the basic Regulations or for which no notice of initiation was published in the Official Journal, were concluded during 2006.

They more specifically concern, *inter alia*, the acceptance, voluntary withdrawal or breach of undertakings, new exporter requests in sampling cases, suspension of measures, etc.

### 7.3.4. New exporter reviews (see Annex I)

Articles 11(4) and 20 of the basic 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 Community after the investigation period. As such, an individual duty, which is usually lower than the country-wide duty, can be calculated for them.

In 2006, one new exporter review was initiated. Two investigations, of which 1 accelerated review, were concluded. One investigation was terminated thereby maintaining the original level of duty.

### 7.3.5. 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 Community, 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 and 19(3) of basic Regulations.

In 2006, 2 anti-absorption investigation was initiated and one was concluded without an increase of the duty.

### 7.3.6. 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 foreseen in Articles 13 and 23 of the basic Regulations.

In 2006, 2 investigations were initiated. Three were concluded with extension of the duty and one without the extension of the duty.

#### **7.4. Safeguard investigations (see Annex L)**

During 2006, the investigation on frozen strawberries was terminated without the imposition of measures. At the end of 2006, only one safeguard measure was still in force, namely the one on imports of certain citrus fruits.

### **8. ENFORCEMENT OF AD/AS MEASURES**

#### **8.1. 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 TDI services to be more pro-active rather than simply reactive in the enforcement field.

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

Monitoring of undertakings forms part of the enforcement activities, since 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 2006, there were undertakings in force accepted from 40 companies. During 2006, the following changes to the portfolio of undertakings took place: undertakings of 22 companies came to an end and 24 offers for undertakings have been accepted. This brings the total number of undertakings in force at the end of 2006 to 43.

### **9. REFUNDS (SEE ANNEX U)**

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

During 2006, 19 new refund requests were lodged. Thirteen cases were closed, one full and three partial refunds were granted and two refund requests were rejected.

### **10. JUDICIAL REVIEW : DECISIONS GIVEN BY THE COURT OF JUSTICE (CoJ) / COURT OF FIRST INSTANCE (CFI)**

In 2006, 6 judgments relating to AD or AS were rendered by the Court of First Instance (none by the Court of Justice). Furthermore, in 4 cases, the applications were withdrawn by the applicants. A detailed summary of the judgments is given in the Working Document.

Nineteen new cases were lodged in 2006, 17 before the CFI and 2 before the CoJ.

A list of the AD/AS cases before the CFI and the CoJ still pending at the end of 2006 is given in Annex S of the Working Document.

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

### **11.1. 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.

In the salmon case, a panel was established on 22 June and its members were finally decided upon on 2 August 2006. Norway has chosen to challenge a very wide range of aspects of the anti-dumping proceeding concerned – from dumping through injury, causation to the form of the measures. Following first written submissions by both parties to the dispute, the first substantive meeting of the panel with the parties and third parties took place on 12 and 13 December 2006.

The final panel report is expected to be issued in July 2007, following which both parties will have the possibility to appeal.

Details are given in the Working Document attached to this report.

### **11.2. Other WTO activities**

In 2006, anti-dumping, industrial subsidies and fisheries subsidies negotiations intensified and deepened with the discussion of proposals offering concrete legal texts for possible changes. On anti-dumping, the Community submitted proposals relating to additional scrutiny of initiations by an expert group and to a regular transparency mechanism in the Anti-Dumping Committee of Practices of User Countries. On subsidies to fisheries, a “middle ground” position as reflected in the proposals tabled by the Community continued to gather support from an increasing number of countries. The Community also advocated a strong enforcement and transparency mechanism that would ensure that any new disciplines are actually implemented by all. The EU submitted a textual proposal on these two aspects in April 2006. On industrial subsidies, the discussions gradually focused on a limited number of substantive issues, including the subsidisation practices addressed by the EU in its textual proposal of April 2006. However, because the gaps between key players remained too wide, the Director-General of the WTO decided to suspend the negotiations in all areas in July 2006.

Informal technical work resumed in the autumn 2006. On anti-dumping, the Community remained one of the most active members in the working group on questionnaires and verification outlines, which had been created on our initiative and is chaired by a Commission official. In subsidies, informal contacts between key players ensured that this negotiating area, in particular the issues promoted by the EU, would remain on the table upon resumption of the negotiations.

In parallel to these activities, the regular work of the Anti-dumping, Subsidies and Countervailing and Safeguards Committees was on-going.

## **12. CONCLUSION**

The year 2006 was characterized, in comparison with previous years, by an increase in the number of cases initiated and also by an increase in the number of investigations terminated without the imposition of measures. It was an average year in terms of measures imposed. It was “eventful” in a number of other aspects, such as the preparation for the further enlargement of the EU in 2007, the Green Paper exercise and the investigation on leather footwear originating in the People's Republic of China.

This report shows the EC's moderate use of trade defence instruments, while confirming its practice of ensuring that investigations are rigorously and professionally carried out. At the same time, where proven, the Community is ready to take a tough stand against unfair trade practices. Transparency goes hand in hand with the rigorous application of the trade defence instruments, reflecting the changes made to the legislative framework in 2004 and 2005. The Commission is committed to pursuing such a line in the future.