



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT

26th annual report on the community's anti-dumping, anti-subsidy and safeguard activities

(2007)

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INTRODUCTION

This 2007 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 2007 and is supplemented, as in previous years, by a more detailed Commission Staff Working Document, together with detailed annexes. This report follows the same general structure of the Working Document, including all its headings, for easy reference to more comprehensive information.

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

2007 saw the continuation of the Trade Defence Instruments (TDI) review, which had been launched in 2006, with strong participation from stakeholders in the process during the year. Also in 2007 the Trade Defence Services were re-organised as part of an overall re-structuring of DG Trade. This also involved the creation of an independent Hearing Officer in DG Trade.

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. TDI REVIEW– CONTINUATION OF PROCESS LAUNCHED IN 2006

In 2007 the Commission continued with the TDI review process which had been launched in 2006. In aiming to ensure that the EU's trade defence instruments continue to work as effectively as possible, taking into account the rapid changes in the global economy, the process involved the participation of many stakeholders.

The Commission organised a public hearing on the subject in March 2007 which was attended by a large number of stakeholders and was well received by participants. The process generated a huge number of submissions, all of which have been posted online on the Commission's website.

The public consultation identified a need to improve the accessibility, transparency, speed and clarity for business.

Drawing on the outcome of the public consultation the Commission worked on a number of proposals to amend the EU's trade defence rules. The results of the Commission's assessment of the public consultation were published in autumn 2007.

The Commission's approach generated a lively discussion among Member States and stakeholders on this politically sensitive issue and generated vigorous debate during 2007. The analysis of the discussion revealed that there was not yet sufficient consensus among Member States and stakeholders for the adoption of a package on TDI review.

The European Parliament has also shown a close interest in the TDI review process and was up-dated regularly by the Commission.

4. COUNTRY-WIDE MARKET ECONOMY STATUS (MES)

For the purposes of anti-dumping investigations a country can be considered a full market economy if it fulfils five criteria which are set out in detail in the Working document attached to this report.

During 2007 the Commission services continued to evaluate requests for country-wide MES from China, Vietnam, Armenia, Kazakhstan and Mongolia. All five countries continued to provide additional information in support of their claims throughout the year.

The countries concerned are at various stages in their progress as are the evaluations for MES.

In addition to a number of bilateral meetings with the countries concerned, March 2007 saw the first meeting of the EU-Vietnam MES Working Group, while for China the seventh meeting of the dedicated MES Working Group took place in July 2007. At that EU-China meeting, the group discussed a short updated assessment report which had been prepared by the Commission. In the report the progress made by China was acknowledged but it was concluded that further specific steps were needed to ensure China complies with the four outstanding criteria. It was also foreseen that a more comprehensive report would be prepared in 2008.

Specific MES missions took place to Kazakhstan (February 2007) and Armenia (July 2007), while plans for a further mission to Mongolia were considered at the end of the year.

5. INFORMATION AND COMMUNICATION ACTIVITIES / BILATERAL CONTACTS

In 2007 the Trade Defence Helpdesk for SMEs, which had been set up in December 2004, continued to address specific SME questions/problems regarding TDIs, both of a general nature or case-specific. Information and training seminars for third country government representatives and for economic operators, both within and outside the EU, continued to be an important part of the activities of the TDI Services during 2007.

6. OVERVIEW OF AD, AS AND SFG INVESTIGATIONS AND MEASURES

6.1. General

At the end of 2007, the Community had 127 AD measures (see Annex O) and 9 AS measures (see Annex P) in force.

In 2007, 0,73% 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.

6.2. New investigations (see Annexes A through E and Annex N)

In 2007, 9 investigations were initiated¹. Provisional duties were imposed in 12 proceedings. 12 cases were concluded with the imposition of definitive duties. 10 proceedings were concluded without measures. Another 18 anti-dumping measures were allowed to expire automatically following their 5-year duration.

6.3. Review investigations

Review investigations continue to represent a major part of the work of the TDI services. In the period 2003-2007 they accounted for 65% of all investigations initiated. Table 2 in the Working Document provides statistical information for the years 2003-2007.

6.3.1. 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 2007, 11 expiry review investigations were initiated. 13 expiry reviews were concluded with a confirmation of the duty for a further period of 5 years. 3 expiry reviews were concluded by the termination of measures.

6.3.2. 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 2007, a total of 24 interim reviews were initiated. 11 interim reviews were concluded with confirmation or amendment of duty. 8 investigations were concluded with the termination of measures.

¹ Table 1 in the Working Document provides statistical information on the new investigations for the years 2003 – 2007 carried out under the provisions of Articles 5 and 10 of the basic Regulations.

6.3.3. “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 2007.

8 such reviews were concluded in 2007. They specifically concern, *inter alia*, the acceptance, voluntary withdrawal or breach of undertakings, new exporter requests in sampling cases, suspension of measures, etc.

6.3.4. 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 2007, 2 new exporter reviews were initiated.

6.3.5. 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 2007, 1 anti-absorption review was concluded with an increase of the duty.

6.3.6. 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 2007, 4 such investigations were initiated. 1 anti-circumvention investigation was concluded with extension of the duty and 2 were concluded without the extension of the duty.

6.4. Safeguard investigations (see Annex L)

During 2007, the only safeguard measure which had been in place expired, concerning imports of certain citrus fruits.

7. ENFORCEMENT OF AD/AS MEASURES

7.1. 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.

7.2. 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 2007, there were 43 undertakings in force. During 2007, the following changes to the portfolio of undertakings took place: undertakings of 8 companies came to an end and 3 offers for undertakings have been accepted. This brings the total number of undertakings in force at the end of 2007 to 38.

8. 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 2007, 8 new refund requests were lodged. 5 cases were closed, no full or partial refunds were granted, 3 refund requests were rejected and 2 requests were withdrawn.

9. JUDICIAL REVIEW: DECISIONS GIVEN BY THE COURT OF JUSTICE (COJ) / COURT OF FIRST INSTANCE (CFI)

In 2007, the Court of Justice (COJ) and the Court of First Instance (CFI) rendered 1 judgment each relating to the areas of anti-dumping or anti-subsidy. The COJ also issued 1 order removing a case from the register and the CFI issued 3 orders removing cases from the register. A summary of the judgments is given in the Working Document.

10 new cases were lodged in 2007, all before the CFI.

A list of the AD/AS cases before the CFI and the CoJ still pending at the end of 2007 is given in Annex S of the Working Document.

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

10.1. 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 2007 a WTO Panel, which had been established following a request from Norway challenging EU AD measures on Salmon, issued its report. The results were somewhat mixed for the EU, 'winning' on some important points relating to its policy and practice while on a number of technical specific issues the EU lost.

Further details on the case are given in the Working Document attached to this report.

10.2. Other WTO activities

In 2007, the DDA Negotiating Group on rules continued to meet regularly on an informal basis to discuss the various textual proposals submitted by Members in the three negotiating areas, i.e. anti-dumping, industrial subsidies and fisheries subsidies.

In November 2007, the Chair of the Negotiating Group issued a first draft text covering anti-dumping, general subsidies and fisheries subsidies. A vast majority of the WTO membership, including the EU, felt that the draft was seriously unbalanced and only reflected the views of a handful of members, e.g. allowing zeroing, a practice condemned by the Appellate Body.

This was particularly the case in the anti-dumping and fisheries subsidies draft texts. This led many WTO members to call upon the Chair to produce a revised draft at the earliest possible time.

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.

11. CONCLUSION

2007 saw a significant drop in the number of new cases initiated as well as the number of investigations terminated without the imposition of measures. However, the number of measures imposed, both definitive and provisional, remained at a level close to that of 2006. Regarding reviews, there were more initiations in 2007 than in the previous year.

The TDI review process continued, provoking lively debate and generated many submissions from stakeholders during the year. This underlined the need for trade

defence instruments to be used in a fair and transparent way while fully respecting the rule of law.

The services continued to carry out investigations rigorously and professionally throughout the year. In this context the creation of an independent Hearing Officer in DG Trade further endorsed the services' ongoing commitment to transparency and the rights of interested parties in the process.