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

**32nd Annual Report from the Commission to the Council and the European Parliament  
on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2013)**

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

**32nd Annual Report from the Commission to the Council and the European Parliament  
on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2013)**

## **INTRODUCTION**

This report sets out the European Union's anti-dumping, anti-subsidy and safeguard activities during 2013.

This short report provides an overview of the highlights during 2013 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://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 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 MODERNISATION**

Important progress was made on the ongoing modernisation project in 2013 with the adoption of a legislative proposal, a communication and draft guidelines on four subjects by the Commission in April 2013.

The exercise to modernise the trade defence instruments (TDI's) was launched in October 2011. Given that the global trading environment has changed significantly over the last decade and the fact that the EU's trade defence system has remained largely unchanged since the conclusion of the Uruguay Round almost 20 years ago, a need to adapt the TDIs to the current needs of business was identified.

The aim of the ongoing modernisation project is to improve the EU's current trade defence system for the benefit of all stakeholders. The focus lies on finding practical solutions to real problems which Union producers, importers, traders, etc. encounter through the use of the instruments. The aim is to render the system more efficient and measures more effective without, however, changing the underlying principles and balance of the system.

Following its adoption by the Commission in April 2013, the legislative proposal was transmitted to Council and Parliament and is following the ordinary legislative procedure.

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

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

Six countries have requested country-wide MES: China, Vietnam, Armenia, Kazakhstan, Mongolia and Belarus. In 2013, Mongolia and Vietnam provided further information in support of their requests, which allowed the services to continue updating the assessment of those economies. An updated assessment report was shared with the Vietnamese authorities in 2013. The report based on the results of a November 2012 working group meeting and information subsequently received was finalised in May 2013. The report confirmed an earlier assessment that criterion one was met while progress on the remaining four criteria, although substantial, was still insufficient for the granting of MES. Additional updated information was provided by the Vietnamese authorities early in 2014.

Consultations with Mongolian authorities continued in 2013 allowing the Commission services to prepare an updated assessment (granting one criterion), which was shared with the Mongolian authorities early in 2014.

As regards China, no consultations on MES took place in 2013. The Commission remains willing to discuss further progress made by China towards MES, and hopes that the Chinese authorities will continue to engage in the exercise and deliver the necessary information for the MES analysis by the Commission.

In 2010 questions on developments of both Kazakhstan's and Armenia's progress towards MES were sent to the respective authorities. However, by the end of 2013 still no new information had been sent to the Commission by either country. During the first half of 2014 both countries submitted information to facilitate updating their MES assessments. As regards Belarus any work on this file has been on hold since 2010 due to the political situation in the country.

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

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

Participating in Trade Defence investigations can pose certain challenges for SME's owing to their small size, resource limitations and their fragmentation. In order to help SMEs deal with the complexity involved in TDI investigations a Helpdesk for SMEs was set up. In 2013, the Helpdesk received many requests for information, which were all immediately addressed. These questions ranged from case-specific queries to more general trade defence issues addressing both the procedural and substance elements of proceedings. The TDI website also specifically highlights SME's role in TDI proceedings and offers practical advice and help.

##### **5.2. 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.

There were a number of bilateral contacts dedicated to discussing various trade defence related topics with a number of third countries during 2013. These included China, Korea, Morocco, Mexico, Philippines, Thailand and Vietnam Malaysia.

There were several meetings with European key stakeholder associations and companies in 2013, including Business Europe and Eurocommerce. The ongoing modernisation project featured significantly during these meetings.

## **6. HEARING OFFICER**

The primary role of the hearing officer (HO) is to guarantee the rights of defence of interested parties and thereby contribute to ensure that the rules are implemented in an objective and transparent manner in trade proceedings.

Certain ground rules of the rights of defence are laid down in the EU Charter of Fundamental Rights while more specific rules of parties involved in trade proceedings are contained in the basic regulations dealing with the different types of trade defence instruments, such as the AD, CVD, safeguards regulations, or in the trade barriers regulation.

Since February 2012, the role and the powers of the HO for DG Trade are set out in a formal mandate by a Decision of the President of the European Commission on the function and terms of reference of the hearing officer in certain trade proceedings. This underpins the Commission's commitment to guaranteeing due process in trade proceedings and to improving the impartiality of the function. The HO is attached, for administrative purposes, to the Commissioner responsible for trade policy. However, he enjoys independence in performing his duties and shall not take instructions in fulfilling his tasks.

During the year 2013 the HO received 159 requests for intervention which concerned 30 TDI proceedings. In all, 42 hearings with 188 interested parties were held, out of which seven were multiparty hearings involving 151 interested parties with similar interests and one confrontational hearing involving three interested parties with conflicting interests.

The interventions were requested by exporting producers in third countries, by the Union industry, as well as by users and importers, or their associations. While the interventions focused on procedural rights, they had, in some cases, also an impact on the substantial outcome of the proceeding or contributed to Policy changes.

The main issues brought before the HO in 2013 can be grouped in three categories (i) right to be informed, (ii) right to access the files and (iii) disagreement with determinations, findings and conclusions.

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

### **7.1. General**

At the end of 2013, the EU had 86 AD measures and 12 AS measures in force.

In 2013, 0.29% of total imports into the EU were 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 2013, 9 new investigations were initiated. Provisional duties were imposed in 6 proceedings. 15 cases were concluded with the imposition of definitive duties. 11 investigations were concluded without measures.

## **7.3. Review investigations**

Review investigations continue to represent a major part of the work of the TDI services. Table 2 in the Working Document provides statistical information for the years 2009-2013.

### *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 2013, 6 measures expired automatically following their 5-year duration.

During 2013, 17 expiry review investigations were initiated. 5 expiry reviews were concluded with a confirmation of the duty for a further period of 5 years. 8 expiry reviews were concluded by the termination of measures.

### *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 2013, a total of 10 interim reviews were initiated. 3 interim reviews were concluded with confirmation or amendment of duty. 3 interim reviews were concluded with the termination of the measures.

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

There were 4 'other' reviews, i.e. not falling under Articles 11(3) or 19 of the basic Regulations, initiated during 2013 while 3 such reviews were concluded in the period.

### *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 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 2013, 2 new exporter reviews were initiated while 1 such review was concluded.

#### 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 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 and 19(3) of basic Regulations.

In 2013, there were no anti-absorption reviews initiated or concluded.

#### 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 provided for in Articles 13 and 23 of the basic Regulations.

In 2013, 3 such investigations were initiated. 12 anti-circumvention investigations were concluded with extension of the measures and 3 were concluded without extension of the measures.

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

During 2013 there was no safeguard activity.

## 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 pro-actively in cooperation with Member States ensure the proper enforcement of trade defence measures in the European Union.

### 8.2. **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 2013, there were 15 undertakings in force. During 2013, the following changes to the portfolio of undertakings took place: The undertakings of two companies were withdrawn as it was established that breaches had occurred. In the 'Solar Panels case', undertakings from 121 companies/company groups were accepted. This brought the total number of undertakings in force at the end of 2013 to 134.

## **9. REFUNDS**

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 has been eliminated or reduced to a level below that of the duty in force.

During 2013, 28 new refund requests were submitted. At the end of 2013, 13 investigations were on-going, covering 36 requests. In 2013, 25 Commission Decisions were adopted: 5 granting a full refund, 18 granting a partial refund and 2 rejecting the refund requests. 1 request was withdrawn.

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

In 2013, the General Court and the Court of Justice rendered 28 judgments relating to the areas of anti-dumping or anti-subsidy. 4 of the judgments of the Court of Justice concerned appeals against judgments of the General Court.

There were 33 new cases lodged in 2013, 23 before the GC and 10 before the COJ.

A list of the AD/AS cases before the GC and the COJ still pending at the end of 2013 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.

During 2013 a WTO panel was established following a request by Indonesia to the WTO with respect to anti-dumping measures imposed by the European Union on the imports of fatty alcohols and with respect to certain aspects of the investigation underlying these measures. Also in 2013, China requested consultations with the European Union regarding compliance procedures following the WTO dispute relating to EU definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China. In December 2013, Argentina requested consultations with the European Union regarding anti-dumping measures imposed on biodiesel and also in December

2013, Russia requested consultations with the European Union regarding “cost adjustment” methodologies used by the EU for the calculation of dumping margins in several anti-dumping investigations and reviews concerning, among others, imports from Russia.

## **11.2. Other WTO activities**

While there was no activity during 2013 for the Negotiating Group on Rules, 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

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. The Committees met twice in regular sessions to review notifications, including the EU's 2013 New and Full Subsidy Notification. In addition the informal technical group on Anti-dumping met a number of times during 2013.

## **12. CONCLUSION**

The number of investigations dealt with and concluded during 2013 was in line with the average of previous years activities, with some indicators above average. The year was characterised by a shift to more activity in review investigations rather than new investigations, when compared to the previous year. Given that the process is complaint driven, this reflected the type (reviews or new cases), and number, of properly substantiated complaints received during the year. As with previous years, the activities centered on anti-dumping and anti-subsidy with no safeguard actions.

The Modernisation of the Trade Defence instruments exercise had been launched in the autumn of 2011. The modernisation package adopted by the Commission in April 2013 included a Commission Communication, a legislative proposal and draft guidelines on certain aspects of investigations. The ordinary legislative procedure is under way in the European Parliament and the Council.

The TDI services also continued their information role through organising seminars aimed at third country officials and held a number of bilateral contacts with industry.