



PARLAMENT TA' MALTA

## IT-TNAX-IL LEGIŻLATURA

P.L 6409

Dokument imqiegħed fuq il-Mejda tal-Kamra tad-Deputati fis-Seduta Numru 347 tal-20 ta' Jannar 2016 mill-Onor. Luciano Busuttil, President tal-Kumitat Permanenti dwar l-Affarijiet Barranin u Ewropej.

---

Raymond Scicluna  
Skrivan tal-Kamra

3599

MINISTRY FOR THE ECONOMY, INVESTMENT AND SMALL BUSINESS

Memorandum on a Report from the Commission to the Council and the European Parliament: 33rd Annual Report from the Commission to the Council and the European Parliament on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2014) (COM (2015) 385) 1 December 2015



**MEMORANDUM ON A REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT: 33RD ANNUAL REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT ON THE EU'S ANTI-DUMPING, ANTI-SUBSIDY AND SAFEGUARD ACTIVITIES (2014) (COM (2015) 385)**

Implementing Ministry	Ministry for the Economy, Investment and Small Business (MEIB)	<i>Shol</i>
Participating Ministries	Ministry for Finance (MFIN)	
Originating Department / Entity	EU Affairs Directorate, MEIB	
Approvals	Cabinet (1 December 2015)	Inter-Ministerial Committee for European Union Affairs (29 October 2015)
Copy	Permanent Secretary, MEIB	Permanent Secretary, MFIN
	Director EU Affairs, MEIB	Director EU Affairs, MFIN
Reference Documents	COM (2015) 385	
DMS Reference Number	FAC(R) ANTDMPANTSUBGRD 291015	
Signature	Minister for the Economy, Investment and Small Business	

## 1 Background

- 1.1 This Report is drawn up on the requirements and basis of Article 22a of Council Regulation (EC) No 1225/2009, Article 33a of Council Regulation (EC) No 597/2009 and Article 23 of Regulation (EC) 295/478.
- 1.2 End of 2014 the EU had 81 anti-dumping (AD) measures and 13 anti-subsidy (AS) measures in force. In 2014, 0.29% of total imports into the EU were affected by AD or AS measures.
- 1.3 The follow-up measures 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. Given that undertakings are part of AD or AS measures, monitoring of undertakings forms part of the enforcement activities. In the beginning of 2014, there were 134 undertakings in place.
- 1.4 An importer can 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 as per Articles 11(8) of the AD and 2(1) of the AS Regulations. Given today's trading environment is significantly different from that of 20 years ago, where the last important changes to the global rules governing TDIs during Uruguay round were made, a modernisation exercise is important for stakeholders. A need is being felt to improve the EU's current trade defence system.
- 1.5 The modernisation exercise aims at rendering the instruments more efficient and effective. The TDIs are intended to become more practical by giving more accessible and better targeted measure responses to certain unfair trading practices exercised by our trading partners. A country can be considered a market economy for the purposes of anti-dumping investigations if it fulfils five criteria. These five criteria can be found in the Staff Working Document.
- 1.6 Six countries have made such a request: China, Vietnam, Armenia, Kazakhstan, Mongolia and Belarus. The complexity of Trade Defence Investigation, can pose certain challenges for SMEs. Thus a Helpdesk for SMEs was set up in December 2004. In 2014, the Helpdesk continued with its operation. Various trainings and seminars were held in order to explain the legislations, procedures and practice of the EU's trade defence activity.
- 1.7 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. The activities of the Hearing office will no longer be addressed in this report but will be made available in a separate report.
- 1.8 With regards to activities from WTO, two panels were composed in 2014. One panel concerning anti-dumping measures on imports of fatty alcohols from Indonesia (DS442) and the other panel regarding anti-dumping measures imposed on biodiesel from Argentina (DS473) 2014 was characterised by an increase in the opening of new investigations and a reduction in the number of expiry reviews.

## 2. Legal basis

### 2.1 *Basic Treaties*

#### 2.1.1 Treaty on the Functioning of the EU.

2.2 *European Parliament's involvement in decision-making procedure*

2.2.1 N/A

2.3 *Majority required in Council*

2.3.1 N/A

**3 Subsidiarity**

3.1 N/A

**4 Government's position**

4.1 *Government's position on the dossier in concrete terms*

The following is the consolidated position of the Ministries concerned (Implementing: Ministry for the Economy, Investment and Small Business; Participating: Ministry for Finance) with regard to the Report from the Commission to the Council and the European Parliament; 33rd Annual Report from the Commission to the Council and the European Parliament on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2014).

4.1.1 The Government takes note of the Report.

4.2 *Economic and financial repercussions of the dossier*

4.2.1 N/A

**5 National Context**

5.1 *Internal Consultations*

5.1.1 N/A

5.2 *External Consultations*

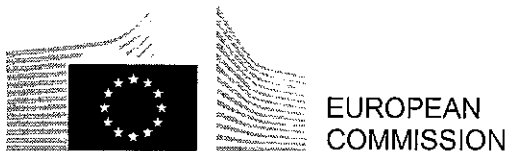
5.2.1 N/A

5.3 *Related national legislation*

5.3.1 N/A

5.4 *Changes required in national legislation*

5.4.1 N/A



Brussels, 3.8.2015  
COM(2015) 385 final

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

**33rd Annual Report from the Commission to the Council and the European Parliament  
on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2014)**

{SWD(2015) 149 final}

**EN**

**EN**

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

**33rd Annual Report from the Commission to the Council and the European Parliament  
on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2014)**

## INTRODUCTION

This is a report of the European Union's anti-dumping, anti-subsidy and safeguard activities during 2014. It is presented to the European Parliament and the Council in line with the provisions of Article 22a of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ('basic anti-dumping Regulation'), Article 33a of Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community ('basic anti-subsidy Regulation') and Article 23 of Regulation (EU) 2015/478 of the European Parliament and of the Council 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 Council 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 2014 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 and ongoing investigations is broadly in line with those in 2013. The 'portfolio' of cases has however changed. Indeed, the activity in 2014 was characterised by a return to more new investigations and a reduction in the number of reviews (notably expiry reviews) as compared to the previous year.

At the end of 2014, the EU had 81 AD measures and 13 AS measures in force.

In 2014, 0.29% 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.

With regard to the figures on initiations and conclusions of cases in the subsequent sections, note that most of the cases concluded in 2014 had been initiated in 2013 while many of those initiated in 2014 will come up for decision in 2015.

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

In 2014, 16 new investigations were initiated. Provisional duties were imposed in 2 proceedings. 3 cases were concluded with the imposition of definitive duties. 4 investigations were concluded without measures.

### 1.3. Review investigations

Review investigations continue to represent a substantial part of the work of the Commission TDI services. Table 2 in the Staff Working Document provides statistical information for the years 2010-2014.

#### 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 2014, 2 measures expired automatically following their 5-year duration.

During 2014, 10 expiry review investigations were initiated. 8 expiry reviews were concluded with a confirmation of the duty for a further period of 5 years. 4 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 2014, a total of 5 interim reviews were initiated. 5 interim reviews were concluded with confirmation or amendment of duty. 2 interim reviews were concluded with the termination of the measures.

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

There were 3 '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 2014, 2 new exporter reviews were initiated while 3 such reviews 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 2014, there were 2 anti-absorption reviews initiated and none concluded.

*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 2014, 3 such investigations were initiated. There was 1 anti-circumvention investigation concluded with extension of the measures.

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

During 2014 the EU did not impose any safeguard measures.

**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 2014, there were 134 undertakings in force. During 2014, the following changes to the portfolio of undertakings took place: The undertaking of one company was withdrawn as it was established that a breach had occurred. The undertakings for two companies were withdrawn due to changes in circumstances during the implementation of the undertakings. The undertaking for one company expired and the undertaking for one company was annulled by the European Court of Justice. No new undertaking was accepted. This brought the total number of undertakings in force at the end of 2014 to 129.

**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 2014, 42 new refund requests were submitted. At the end of 2014, 13 refund investigations were on-going, covering 31 requests. In 2014, 31 Commission Decisions were adopted: 20 granting a partial refund and 11 rejecting the refund requests. 10 requests were withdrawn.

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

Following the adoption by the Commission in April 2013 of a legislative proposal and a Communication, the ordinary legislative procedure is under way in the European Parliament and in the Council. The Parliament voted a legislative resolution in April 2014 and thus closed its first reading. At that time, the Commission also took note of draft guidelines on four subjects with a view to their adoption once the legislative process was more advanced.

The modernisation exercise is important for stakeholders as it represents a means to adapt the trade defence instruments (TDIs) to current business realities. Today's trading environment is significantly different from the one, at the time of the completion of the Uruguay Round over 20 years ago, when the last important changes to the global rules governing TDIs were made. Therefore, there is a need to improve the EU's current trade defence system for the benefit of all stakeholders.

The aim of the modernisation exercise is to render the instruments more efficient and effective. By finding practical solutions to real problems which stakeholders encounter, the TDIs are intended to become more accessible and measures better targeted responses to certain unfair trading practices exercised by our trading partners. Other important elements of the project are increased transparency, particular attention to SMEs, while keeping the balance of interests an essential feature.

#### **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 also in the Staff Working Document accompanying this report. Six countries have requested country-wide MES: China, Vietnam, Armenia, Kazakhstan, Mongolia and Belarus.

In 2014, Vietnam and Kazakhstan provided further information in support of their requests. The information provided was verified during special MES working group meetings with officials from relevant Ministries in both countries during the year. This, along with other information from independent sources formed the basis for updating country-specific assessments by the Commission, which continued up to the end of 2014.

In April 2014 the Commission services shared an assessment report with Mongolia on its progress in relation to MES, in which the fifth 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 four.

As regards China, since 2008 no consultations on MES have taken place. In 2014, the Commission remained willing to discuss further progress made by China towards MES, expecting that the Chinese authorities would continue to engage in the exercise and deliver the necessary information for the MES analysis by the Commission.

Armenia reactivated its engagement in the MES process during 2014 by providing some updated information on developments in the economy as well as replies to questions which had been sent in 2010. The assessment on the file continued on the basis of this new information. As regards Belarus any work on this file has been on hold since 2010 due to the political situation in the country.

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

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

Participating in Trade Defence investigations can pose certain challenges for SME's owing to their small size and resource constraints. In order to help SMEs deal with the complexity involved in TDI investigations a Helpdesk for SMEs was set in December 2004. In 2014, the Helpdesk continued to deal with requests for information. 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.

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

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

The Commission organized two training seminars on EU trade defence policy and practice for officials from several third countries in 2014. There were a number of other bilateral contacts dedicated to discussing various trade defence topics with a number of third countries including China, Korea, Japan, Australia, Vietnam and Morocco.

As regards industry and business organisations in the EU, there was a seminar in February 2014 which brought together the various stakeholders to discuss aspects of the EU's trade defence policy and practice. The attendees included representatives from both producers' and importers' associations as well as the distribution sector. In addition a number of meetings with European key stakeholder associations (e.g. Business Europe) took place in 2014.

## **7. 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. The role and powers of the HO are set out in a formal mandate by a Decision of the President of the European Commission, guaranteeing due process in trade proceedings and the impartiality of the function. The HO is attached, for administrative purposes, to the Commissioner responsible for trade policy. The activities of the Hearing Officer will no longer be addressed in this report, but will be available in a separate report which can be found on (insert link).

<http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

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

In 2014, the General Court ('GC') and the Court of Justice ('COJ') rendered 28 judgments in total relating to the areas of anti-dumping or anti-subsidy. 5 of the judgments of the CoJ concerned appeals against the General Court decisions and 4 were preliminary rulings.

There were 37 new cases lodged in 2014. 28 of these were lodged before the GC and 9 before the CoJ.

A list of the AD/AS cases before the GC and the COJ still pending at the end of 2014 is given in Annex S of the Staff Working Document.

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

### **9.1. 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 2014, i.e. the panel concerning anti-dumping measures on imports of fatty alcohols from Indonesia (DS442) and the panel regarding anti-dumping measures imposed on biodiesel from Argentina (DS473). In DS397 (compliance procedures following the WTO dispute relating to EU definitive anti-dumping measures on certain iron or steel fasteners from China), the substantive meeting between parties and with third parties took place in November 2014. Lastly, the EU held consultations with Russia on cost adjustment methodologies and certain anti-dumping measures, the Panel was established on 22 July 2014 (DS474), with Indonesia on anti-dumping measures on biodiesel (DS480) and with Pakistan on the countervailing measures on imports of PET (DS486).

### **9.2. Other WTO activities**

There was no negotiating activity during 2014 for the Negotiating Group on Rules. The Chair of the Group, Ambassador Wayne McCook, held open-ended consultations with the WTO Membership on 16 December 2014 to discuss possible ways forward in the rules areas in 2015, including the organisation of a stock-taking session and possible work on transparency.

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 sunset reviews, price undertakings and product under consideration.

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 special sessions of the committee to review notifications, including the EU's 2013 New and Full Subsidy Notification.

## **10. CONCLUSION**

2014 was characterised by an increase in the opening of new investigations and a reduction in the number of expiry reviews. As in previous years this reflects the type of complaints which were lodged and which were supported by prima facie evidence. Continuing the trend of previous years, no safeguard action was taken by the EU.

Work continued on the Modernisation of the Trade Defence instruments proposal with the Parliament voting a legislative resolution in April 2014 and closing its first reading and with discussions in the Council.

The Commission TDI services also continued their information activities targeted at third country officials, the Union industry and importers.

**FINAL BRIEF****FOREIGN AND EUROPEAN AFFAIRS COMMITTEE  
Working Group 1**

---

**COM (2015) 385 A REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT: 33<sup>rd</sup> Annual Report from the Commission to the Council and the European Parliament on the EU's anti-dumping, anti-subsidy and safeguard activities (2014)**

**Legal Basis:** TFEU

**Implementing Ministry:** Ministry for the Economy, Investment and Small Business (MEIB)

**Participating Ministry:** Ministry for Finance (MFIN)

**Originating Department:** EU Affairs Directorate, MEIB

**Aim**

This is a report of the European Union's anti-dumping, anti-subsidy and safeguard activities during 2014. It is presented to the European Parliament and the Council in line with the provisions of Article 22a of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ('basic anti-dumping Regulation'), Article 33a of Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community ('basic anti-subsidy Regulation') and Article 23 of Regulation (EU) 2015/478 of the European Parliament and of the Council on common rules for imports.

This short report provides an overview of the highlights in the area of Trade Defence in the EU during 2014 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.

**Committee Recommendation**

**The Committee concurs with the Ministry's position contained in the Explanatory Memorandum of 1 December 2015 and has therefore decided to clear this document from scrutiny.**