

# Protection against subsidised imports from countries not members of the European Union. Codification

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The Commission presents its 37th Annual Report on the EU's anti-dumping, anti-subsidy and safeguard activities and the use of trade defence instruments by third countries targeting the EU in 2018. This report gives two accounts of the EU's trade defence activity:

- exceptionally, going beyond the legal obligations, the report specifically takes stock of the major challenges, developments and achievements of the Juncker Commission in the area of trade defence;
- the report describes the EU's [anti-dumping](#), [anti-subsidy](#) and [safeguard activities](#) as well as the trade defence activity of third countries against the EU in 2018, in accordance with the requirements of the Anti-Dumping, Anti-Subsidy and basic Safeguard Regulations.

## *Overview and achievements of the Juncker Commission*

The Commission notes that during the 60 years of history of the EU's trade defence instruments (TDI), there was probably no period that was more challenging than the one between 2014 and 2019. Global overcapacity in steel significantly increased the requests for trade defence measures.

***Modernisation of trade defence instruments (TDI):*** new global market realities and a rising wave of unfair trade practices made modernisation of the rules a necessity. These entered into force on 8 June 2018 and made the following changes:

- introduction of an improved injury margin calculation, including a minimum profit of 6% as well as the possibility of reflecting the investments and R&D needs of the Union industry when calculating the injury margin;
- adoption of a shorter time-frame for the imposition of provisional measures— these measures must now be adopted normally within seven months, but not later than within eight months (previously the timeframe was nine months);
- introduction of a pre-warning mechanism on the imposition of provisional anti-dumping and anti-subsidy measures. No other TDI jurisdiction operates such a system.
- EU SMEs will receive additional support when considering or being affected by TDI measures;
- for the first time, trade defence law allows the Commission to take into account social and environmental aspects in countries under scrutiny in a number of well-defined circumstances. This applies in particular in relation of the lesser duty rule when it comes to determining the injury margin.

***New dumping calculation methodology and strengthened anti-subsidy instrument:*** amendments to the TDI legislation introduced a new methodology to calculate the normal value of goods subject to investigation, in case of significant distortions induced by the authorities of the exporting country. To allow stakeholders to make their case concerning countries where distortions exist, the Commission may publish reports on a country or sectoral distortions. The first such report concerned China, as it has been so far the country most subject to the EU's trade defence activity. New amendments have also

strengthened the anti-subsidy instrument. It allows the Commission to better capture the full magnitude of subsidisation by making it possible to also address subsidies identified only in the course of an investigation. This change is important because foreign governments increasingly provide subsidies in a non-transparent manner and in violation of the World Trade Organisation (WTO) rules on the notification of subsidies.

**Increased trade defence activity:** global overcapacity in steel significantly increased the requests for trade defence measures. The Commission, by imposing 25 new TDI measures on steel during this period, made an important contribution to the viability and global competitiveness of the European steel industry. In addition:

- in the period of November 2014 - December 2018, 170 TDI cases were initiated and 95 measures were applied in order to restore a level playing field. Of the latter, 35 are new measures and the remainder are renewals or extensions of existing measures;
- EU TDI measures imposed since the beginning of the Commission's mandate effectively preserved more than 124 000 jobs. The steel sector benefited the most, with over 86 000 jobs protected. Overall, the EU measures that were in force at the end of 2018 effectively protected 320 000 direct industrial jobs from unfair competition;
- the Commission services intervened in around 70 foreign trade defence investigations. The number of trade defence measures targeting EU exporters now stands at 174, as compared to 162 in 2017. This upward trend is expected to continue over the next years.
- in 2018, 10 new investigations were initiated. Provisional duties were imposed in two proceedings. Four cases were concluded with the imposition of definitive duties, while eight investigations were concluded without measures.

### ***Anti-subsidy activities***

The Commission stepped up its fight against trade-distorting subsidies by third countries. In particular, subsidies contributing to overcapacity can prove highly distortive and often result in spill overs of excess production onto export markets. Such subsidisation often has de facto effects that are similar to export subsidies, the latter being prohibited under WTO rules. Between November 2014 and December 2018, the Commission opened 25 anti-subsidy investigations and imposed 12 anti-subsidy measures. In many cases, investigation findings pointed to relatively high levels of subsidisation, which were a rather rare occurrence in previous periods. To name but a few, countervailing duty (CVD) of significant amounts were imposed on hot rolled flat steel products from China (CVD of up to 35.9%) or tyres from China (CVD of up to 51.08%).

Due to the increasing importance of tackling the problem of subsidisation by third countries, the Commission released a special subsidies database aimed at providing more transparency about foreign subsidies schemes. The database is now published on the Commission's website and updated regularly. In that respect, it must be noted that WTO Members are legally obliged to notify their subsidies to the WTO. However, many WTO Members do not comply or comply only partially with this obligation. The EU has been systematically taking-up these instances of non-compliance in the WTO Anti-subsidy Committee. Moreover, it has commissioned studies that examine subsidisation by foreign governments, notably China. Those studies will be made publicly available so as to compensate for the lack of transparency of foreign subsidies schemes.