Common rules for imports. 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, which is central to the application of the lesser duty rule, one of the key features of the Union's TDI. The non-injurious price calculation was updated in order to better reflect current economic realities. This includes 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. Moreover, the new rules can take account the existence of raw materials distortions, which more and more plague today's commercial exchanges;
- 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.

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 if not essential contribution to the viability and global competitiveness of the European steel industry. Moreover, the EU took a number of steps to better protect the steel industry in the trade defence domain through import surveillance, accelerated investigations, the opening of investigations based on threat of injury (where it was justified), or the application of definitive duties retroactively, where warranted.

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 intervened when third countries intended to impose ***unwarranted trade defence measures against EU exports***. Trade defence activity around the globe has been continuously on the rise since 2014, and reached an all-time high in 2018, when the Commission services intervened in around 70 foreign trade defence investigations.

Safeguard measures

In 2018, the EU initiated three safeguard investigations – one *erga omnes* on steel products and two bilateral ones against Cambodia and Myanmar on Indica rice, under the rules of the EU's Generalised Scheme of Preferences.

On the issue of steel products, the report notes that on 23 March 2018, the United States imposed a 25% import duty on steel products. The EU deemed these measures not legally warranted, and in a three-pronged action – in addition to a challenge of the US measures under the WTO dispute settlement system, and the imposition of rebalancing measures – the Commission took trade defence action by initiating a safeguard investigation, the first one since 2002. Indeed, as a result of the US duties, global suppliers started to divert some of their exports from the US to the EU. In order to avoid a further sharp increase of imports that threatened to worsen the already fragile economic condition of EU steel producers (due to global overcapacity), the Commission adopted definitive safeguard measures erga omnes. The measures, in the form of tariff rate quotas will maintain traditional trade flows and the diversity of sources of supply the EU user industry needs, while protecting the EU producing industry against trade deflection.

In the WTO Committee on Safeguards, the EU raised a series of concerns relating to other WTO Members' safeguard investigations (such as Chile – powdered milk and Gouda cheese, US – solar panels, or Turkey – wallpaper). In addition, the EU responded to questions by other WTO members related to the initiation of its safeguard investigation concerning certain steel products.