



FTA
Foreign Trade Association

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**Transparency and predictability:
shortcomings in the EU anti-dumping system**

September 1, 2010

TRANSPARENCY AND PREDICTABILITY

SHORTCOMING IN THE EU ANTI-DUMPING SYSTEM

Introduction

As a representative of the EU's retailers and importers, the Foreign Trade Association has for many years criticised the EU's anti-dumping system for its lack of transparency and predictability¹. These criticisms focus mainly on the (lack of) access to information and the timing of actions taken by the Commission. Retailer and importer "interested parties" should not receive a treatment that impedes their legitimate business activities.

Some of these criticisms can be attributed to the EU Anti-Dumping Regulation² (the "basic Regulation") itself and the lack of precision that exists within – leading to a certain amount of "discretion" being employed by the Commission when implementing its provisions. Others can be directed toward the internal policy of the Commission's anti-dumping services.

In this paper, we examine such issues as: the quality of non-confidential complaints (and access to those complaints); the Commission's responsibility towards responding to submissions by retailers and importers; access to information concerning the progress of investigations; the lack of announcements by the Commission concerning an investigation's progress; the unnecessary delay by the Commission when terminating measures; and the lack of adequate notice of the expiration of anti-dumping measures.

Whilst the rectification of these shortcomings will require a change of practice, no change to the basic Regulation should be necessary – something which, in today's political climate, is highly unlikely to occur. Furthermore, we are not proposing radical solutions or asking for special treatment; merely suggesting easy to implement solutions that will lead to equal treatment.

1. Complaints

As provided for under Article 5(1) of the basic Regulation, a complaint can be lodged by any person, or association not having legal personality, acting on behalf of the Community industry. Typically, a complaint will be filed, via an attorney, by an association of a sector of the European industry. It is these complaints that industry uses as a means to persuade the Commission to initiate an anti-dumping investigation against imports of products that are competing against their own production. Retailers and importers who have registered as "interested parties" are permitted access to the non-confidential versions of those complaints. However, the quality of the information in those complaints is often less than desirable and access could be greatly improved.

1.1 Quality of non-confidential version of complaints

The basic Regulation sets out quite specific criteria with which a complaint must comply before an anti-dumping investigation may proceed³. The principal content must cover evidence of dumping and injury together with a causal link between the allegedly dumped imports and the alleged injury. In addition, the complaint should also include the following: the identity of the complainant; a description of the volume and value of the Community production of the like product by the complainant; a list of all known Community producers of the like product (or associations of Community producers of the like product)⁴; a description of the volume and value of Community production of the like product by such producers; a complete description of the allegedly dumped product; the names of the country(ies) of origin or export in question; the identity of each known exporter or foreign producer; a list of known persons importing the

¹ e.g.: "The EU Commission's reform of TDI – two years on a re-assessment" (www.fta-eu.org)

² Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community – OJ [2009] L343/51

³ Article 5(2)

⁴ When the complaint is made on behalf of the Community industry.

product in question; information on prices at which the product in question is sold on the domestic market; information on export prices (or prices at which the product is first resold to an independent buyer in the Community); information on changes in the volume of the allegedly dumped imports; the effect of those imports on prices of the like product on the Community market and the consequent impact of the imports on the Community industry.

As one might reasonably expect with information at this level, there will be certain information that the complainant will wish to remain confidential. The basic Regulation, under Article 19(1), recognises this as being information the disclosure of which “...would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he has acquired the information...”. Unfortunately, the same article also accepts the rather less specific “[information]...which is provided on a confidential basis by parties to an investigation...”

Since Article 6(7) of the basic Regulation permits interested parties to inspect “...all information made available by any party to an investigation...”, in order to preserve confidentiality, Article 19(2) requires complainants to file non-confidential versions of complaints⁵ that are open to inspection by other interested parties.

The same article stipulates that these versions “...shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence...”. In this respect one should also consider that the WTO has determined that; “...the purpose of the non-confidential summaries...is to inform the interested parties so as to enable them to defend their interests”⁶.

The absence of relevant information within the non-confidential version of a complaint makes the proper prosecution of an anti-dumping investigation by retailer and importer interested parties extremely difficult. After all, it is the complaint which forms the underlying basis for the investigation. We have observed that frequently the Commission takes a rather lenient approach to the “good cause” that must be shown for complainants’ requests for confidentiality to be accepted and a rather wide interpretation of what is considered to be confidential. This can include withholding the names of the companies supporting the complaint⁷ and can result in substantial portions being excised⁸.

For example, whilst it could be argued that announcing the production volumes of individual companies that are party to a complaint could be considered commercially sensitive (though many would say that argument is weak) there can be no argument against including the total (combined) production volume of all companies party to a complaint. Yet, when complaints are filed by EU industry associations comprising numerous companies, this figure is frequently missing on grounds of confidentiality⁹. Since, as detailed in Article 5(4), no anti-dumping investigation can be initiated if the “standing” of the complainants (i.e. their production as a percentage of the overall Community production) is less than 25%, this is a crucial piece of information.

This practice cannot be allowed to continue. The basic Regulation does not set out specific guidelines as to what should be considered confidential; it is a subjective (and apparently arbitrary) decision taken by the official(s) responsible for each individual case – and often seemingly complying with the wishes of the complainant.

We should like the Commission to apply this subjectivity to conduct a more reasonable analysis of what should be excluded from the non-confidential version of the complaint and by doing so grant retailer and importer interested parties adequate rights of defence. This would not necessitate any change to the basic Regulation.

⁵ All interested parties are required to file both confidential and non-confidential versions of all information.

⁶ WTO document WT/DS189/R, 28/09/01: Panel Report on *Argentina – Ceramic Tiles*

⁷ c.f. *Certain footwear with uppers of leather originating in the People’s Republic of China and Vietnam* [Council Regulation 1472/2006 – OJ [2006] L275/1] and the subsequent expiry review - OJ [2008] C251/21

⁸ e.g. *Ironing Boards originating in China and Ukraine* [Commission Regulation (EC) 1620/2006 – OJ [2006] L300/13] where 19 of the 25 annexes containing information relevant to the investigation were blank.

⁹ e.g. *Ceramic Tiles* – ongoing investigation [Commission Notice 2010/C160/06 – OJ [2010] C160/20]

1.2 Access to complaints

Article 5(11) of the basic Regulation specifically permits interested parties to have a copy of the non-confidential version of the complaint, to wit: *“The Commission shall...with due regard to the protection of confidential information, provide the full text of the written complaint...to the known exporters and to the authorities of the exporting country, and make it available upon request to other interested parties involved.”*

Unfortunately, there appears to be no coherent policy in this regard; practice within the anti-dumping directorate differs from unit to unit and from official to official. Over the many years of our involvement in individual anti-dumping investigations concerning consumer products (giving input and arguing our case on behalf of our retailer and importer members) we have encountered three scenarios:

- (a) On occasion, we have received a complaint spontaneously (before our letter expressing our intent to an interested party) as the official in charge has either recognised that we would be likely to be interested in the investigation or, in the case of reviews, has checked the files and noted that we were an interested party in the original investigation.
- (b) More commonly, we either receive a copy of the complaint in response to our letter or, (more recently) in cases when the complaint is particularly large, a request to collect an electronic version of the complaint on a CD-R.

Neither of those, most certainly not the first, can be faulted. However, we have also encountered a third scenario:

- (c) No response to our letter, no confirmation that the FTA has been registered as an interested party and no non-confidential version of the complaint.

Some follow-up telephone calls have resulted in us being told by the official in charge that the unit in question does not send out complaints. This attitude is simply unacceptable and quite how such a diametrically opposed attitude to other units can exist is astonishing.

Fortunately, most enquiries have resulted in either a complaint being sent or an electronic version made available to collect. However, the absence of a response to an initial letter obviously leads to uncertainty regarding one’s status in an investigation and a delay to the receipt of the non-confidential complaint. This is particularly troubling when one considers that responses by interested parties to the initiation of an investigation are subject to a deadline of at least 30 days¹⁰ (normally 40 days is granted). Any delay by the Commission confirming one’s status as an interested party restricts this deadline still further. In addition, since it is the complaint itself which forms the underlying basis for the investigation and therefore is the principle target on which one may put forward arguments against the initiation of an investigation, it is crucial that interested parties are able to access that complaint and do so in a timely fashion.

The Commission must ensure that the third scenario should never occur and that, for the second, responses should be given as quickly as possible.

2.0 Responses to submissions regarding initiation of investigations

The first official notification that an anti-dumping investigation is to be conducted occurs via a “notice of initiation” in the Official Journal; in fact, it is from this date that the investigation (and the fifteen month deadline for the Commission to impose definitive measures) runs.

Article 5(10) of the basic Regulation sets out what information should be included in the notice of initiation: the product and countries concerned; a summary of the information received (from the complainants); the periods within which interested parties may make themselves known, present their views in writing and submit information; and the period in which they apply to be heard by the Commission. The deadlines for interested parties to respond are tight: normally 40 days to make oneself known, submit

¹⁰ c.f. Article 6(2) of the basic Regulation which also permits an extension to this period – though this is rarely granted.

information and apply for the right to a hearing, and only 10 days to submit comments on the choice by the Commission of an "analogue country". If sampling is to be applied, interested parties who wish to be part of that sample must provide certain information with 15 days followed by more substantial information within 21 days¹¹.

However, there is no provision within the basic Regulation that requires the Commission to reply to any submissions filed by interested parties responding to the initiation of investigation. The earliest opportunity for interested parties to discover how their submissions have been considered is once provisional measures have been imposed.

However, one can argue that the absence of such a provision does not in itself prevent the Commission from implementing such an action; after all, there is equally nothing that legally prevents the Commission from doing so. In particular, at the stage of initiation, any responses by retailer and importer interested parties (or their representative associations) will mostly concern the claims presented within the complaint; i.e. the basis upon which the Commission has initiated the investigation. Since the Commission has already assessed those claims (at least on a preliminary level) there is no reason why the Commission could not respond and do so at latest within the same period imposed upon interested parties¹².

3.0 Conclusion to MET assessment – lack of notification

During an anti-dumping investigation against a non-market economy country (NME) the Commission will assess the normal value on the basis of prices and costs in a third ("analogue") country. It will then impose an overall anti-dumping duty based on this figure. For NMEs who are members of the WTO at the date of initiation and for China, Vietnam and Kazakhstan, individual companies who are able to prove that they operate under market economy conditions can claim "Market Economy Treatment" and in doing so will be granted an individual dumping measure.

The Commission sets out five criteria that must be met: decisions taken on prices and costs (e.g. raw materials, labour, sales and investment) must be possible without significant state interference; accounting records must be in line with international standards; production costs and the financial situation must not be subject to significant distortions from the former NME system; bankruptcy and property laws must be in place; all exchange rate conversions must be conducted at the market rate.

Article 2(7)(c) states: "*A determination whether the producer meets the abovementioned criteria shall be made within three months of the initiation of the investigation, after specific consultation of the Advisory Committee and after the **Community industry** has been given an opportunity to comment. This determination shall remain in force throughout the investigation*"¹³. (emphasis added).

However, retailer and importer interested parties are not given the opportunity to comment. This is in spite of the Commission's own admission that all interested parties have "*the right to equal treatment*"¹⁴. Whilst the basic Regulation does not contain a specific provision in this respect, there is also nothing legally preventing the Commission from doing so and thereby avoiding the current discriminatory practice.

It is important to note that a positive determination of MET invariably results in duties being applied that are lower (or in many cases zero) than the overall rate. Therefore, that decision is understandably of critical importance and direct relevance to those retailer and importer interested parties being supplied by the individual companies in question. Even if one puts aside the right to equal treatment, for this reason alone those interested parties should be furnished with the relevant information at the same time.

¹¹ c.f. Article 17(2) of the basic Regulation

¹² The "Code of Good Administrative Behaviour", sets out a 15 day deadline for replies to letters addressed to the Commission.

¹³ In fact, there have been occasions when the decision to grant MET has been changed shortly before the imposition of definitive measures (e.g. Case C-141/08, *Foshan Shunde v Council*)

¹⁴ c.f. Commission's website on unfair trade: http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/practical-information/index_en.htm

4.0 Provisional duties

In accordance with Article 7(1) of the basic Regulation, provisional measures may be imposed if a procedure pursuant to Article 5 has been initiated (and a notice published to that effect), if interested parties have been given adequate opportunities to submit information and put their views forward, if a provisional determination of dumping and injury to the Community industry has been made and the Community interest calls for action to prevent said injury. The duties may be imposed no earlier than 60 days and no later than nine months after the initiation of an investigation and are imposed for a period of six months¹⁵.

Member States (representatives sitting on the Anti-Dumping Committee) are consulted before provisional measures are imposed but unlike the imposition of definitive duties, which requires the approval of the Council, this is only a consultative exercise and the Commission may ignore the opinion of the Member States¹⁶. This leads to additional uncertainty for retailers and importers.

4.1 Lack of notification

Whilst the conclusions reached by the Commission at this stage may be considered “provisional” the investigation has, more or less, passed through most of the stages that are required to subsequently impose definitive duties. Therefore, it is rare for provisional duties to differ greatly from the eventual definitive duties and we know of no instance where definitive duties have not been imposed once provisional duties have been imposed (save for when an investigation has been terminated upon the withdrawal of the complaint).

However, the same cannot be said of instances when the Commission has not imposed provisional duties¹⁷. The fact that provisional duties are not imposed is no guarantee that definitive measures will also not be imposed. Indeed, the reasons why the Commission may not impose provisional duties are likely to be due to legal complications or problems obtaining the required information needed to reach a conclusion within the nine month deadline – rather than it having reached the conclusion that duties are not necessary at all.

Whilst the basic Regulation states that the Commission should provide interested parties (upon request, immediately after the imposition of provisional measures) with the essential facts and figures on the basis of which it is intended to impose definitive measures¹⁸, no such provision exists for provisional measures. In this instance, the Commission is only obliged to furnish interested parties with such information after their imposition¹⁹. Similarly, when provisional duties are not to be imposed, there is no provision within the basic Regulation which requires the Commission to inform interested parties of the fact.

This is an obvious failure of the EU anti-dumping system. Interested parties should have the right to be informed of the fact that the Commission intends to impose provisional duties – likewise that it intends not to impose provisional measures. The lack of this right creates a great deal of uncertainty on the side of interested parties. There is nothing within the basic Regulation to prevent the Commission complying with this request.

¹⁵ Article 7(7) permits a three month extension, or a nine month period, provided that a significant percentage of exporters are in favour of such (this provision must take account of the 15 month deadline imposed for the imposition of definitive duties).

¹⁶ *c.f. Certain footwear with uppers of leather originating in the People's Republic of China and Vietnam* [Commission Regulation 553/2006 – OJ [2006] L98/3] when only three Member States voted in favour, ten against and twelve abstained.

¹⁷ *e.g. Certain iron or steel fasteners originating in China* [Council Regulation 91/2009 – OJ[2009] L29/1]

¹⁸ Article 20(2)

¹⁹ Article 20(1)

4.2 Delayed response to comments on imposition

Following the imposition of provisional measures, Article 21(4) permits interested parties to comment on the measures within one month of implementation. In addition, Article 21(3) grants interested parties the right to request a Hearing (provided that they have already announced their intention to exercise that right within the time limits set out in the original notice of initiation) to argue their case. Unfortunately, this rarely results in any significant change to definitive measures should they be imposed.

The introduction of a Hearing Officer, and the possibility of a dialogue, is a significant improvement on the previous system. In that instance a “Hearing” would consist a team of officials listening to one’s arguments and refusing to answer any questions (including those relating solely to the provisional regulation) on grounds that the investigation was still continuing. However, a significant problem remains.

In a similar vein to submissions by interested parties on the initiation of an investigation, submissions commenting on the imposition of provisional measures do not receive a response until three to four months later – after the Commission has decided to impose definitive measures. This is particularly disappointing when one considers that the Commission invariably²⁰ enforces the minimum 10 day deadline to respond to its reply (and to its conclusion regarding the proposed imposition of definitive measures) permitted under Article 20(5). It can be reasonably questioned why, since the Commission requires three to four months to respond to comments on provisional measures and 13 to 14 months to reach a conclusion on definitive measures, interested parties are expected to analyse and respond to those conclusions within ten (calendar) days.

This limitation to an interested party’s rights of defence can be avoided as there is nothing within the basic Regulation that prevents the Commission from responding sooner (in fact, strictly speaking, the basic Regulation also does not insist that the Commission should reply to those specific comments; Article 20(1) only demands that the Commission discloses the essential facts and considerations on which provisional duties were imposed – normally taking the form of the provisional Regulation itself).

The Commission should ensure responses by interested parties on the imposition of provisional duties are replied to within one month (i.e. the same period afforded to interested parties to provide such comments). In this respect, interested parties will be granted a better opportunity to defend their rights.

5.0 Delayed termination of measures

On occasion, during an investigation to determine whether anti-dumping measures should be imposed or a review to determine whether existing measures should be amended or maintained, the complainant will withdraw its complaint. In such cases the Commission is not permitted to automatically terminate the investigation since Article 9(1) of the basic Regulation says “Where the complaint is withdrawn, the proceeding may be terminated **unless such termination would not be in the Community interest.**” (emphasis added).

In the event, once the Commission has determined that nothing shows that termination would not be in the Community interest, interested parties are informed and invited to comment (normally within ten days). Provided that no evidence is received to contradict the Commission’s findings, a notice is published in the Official Journal²¹.

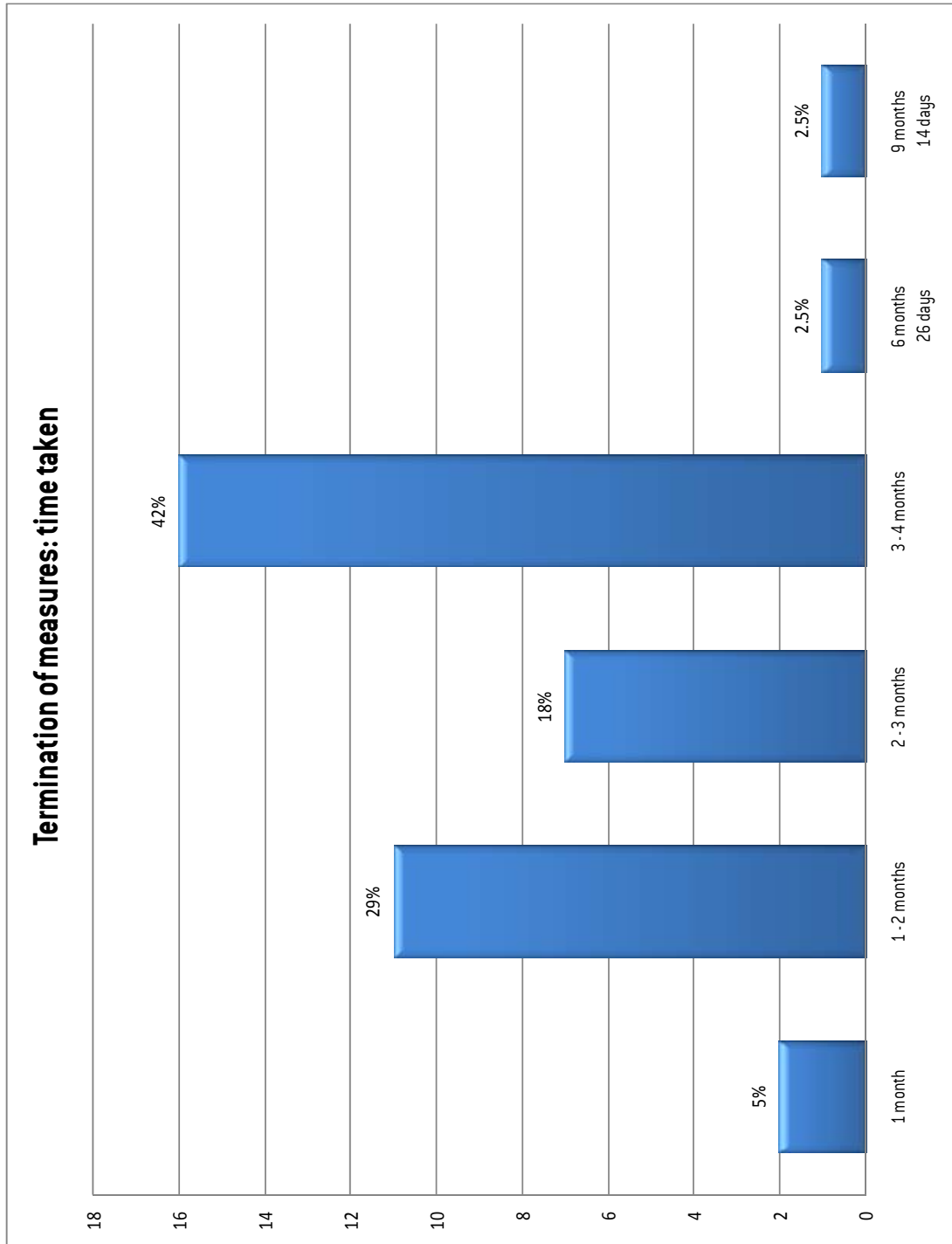
As can be seen from the following tables²², the Commission takes a long time to terminate the measures; in 60% of cases, a minimum of two months. There may be exceptional occasions when the Commission is either unable to make a quick decision, or has to reappraise its decision following opposition from interested parties (unlikely since, other than industry, no interested parties would benefit from opposing termination). However, we should like termination to be enacted far sooner than is current practice.

²⁰ Exceptions are very rare; e.g. *Leather Uppers* where interested parties were granted three weeks to respond to the conclusions of the expiry review (Commission Notice 2008/C251/21 – OJ [2008] C252/21)

²¹ e.g. *Certain stainless steel fasteners and parts thereof originating in India and Malaysia* (Commission Decision 2010/392/EU – OJ [2010] L180/26)

²² Source: Eur-Lex

		Termination of initial investigation					
Product	Countries	Initiation of investigation	Withdrawal of complaint	Termination of investigation	Days to enact termination		
Yellow phosphorus	China	14.01.1999	09.02.2000	28.03.2000	46		
Bicycle frames	China, Taiwan	05.11.1999	24.01.2000	03.05.2000	99		
Bicycle forks	China, Taiwan	05.11.1999	24.01.2000	03.05.2000	99		
Bicycle wheels (complete)	China	05.11.1999	24.01.2000	03.05.2000	99		
Compact disc boxes	China	05.03.1999	07.04.2000	24.05.2000	47		
Steel wire rod	Turkey	22.05.1999	26.06.2000	12.08.2000	78		
Paracetamol	China, India, Turkey, USA	13.05.2000	20.12.2000	10.02.2001	52		
Granite stones	China, India	11.11.2000	06.06.2001	08.08.2001	63		
Magnetic disks	India	13.12.2001	25.06.2002	21.08.2002	57		
Grain orientated electrical steel strips	Poland, Russia	08.05.2002	09.01.2003	08.02.2003	29		
Cellulose acetate (filament yarns)	Lithuania, USA	20.12.2001	06.02.2003	12.03.2003	34		
Lighters (disposable)	China, Indonesia, Malaysia, Vietnam	27.06.2002	14.07.2003	12.09.2003	60		
Hollow sections	Russia, Turkey	16.10.2002	31.10.2003	16.12.2003	46		
Stainless steel cold-rolled flat products	USA	17.12.2002	27.01.2004	09.03.2004	41		
Tube and pipe fittings of iron or steel	Taiwan, Vietnam	11.08.2004	23.03.2005	08.07.2005	107		
Ethyl alcohol	Guatemala, Pakistan	26.05.2005	31.01.2006	26.04.2006	85		
Silicon carbide	Romania	30.06.2005	01.03.2006	21.06.2006	112		
Footwear with protective toe caps	China, India	30.06.2005	17.07.2006	29.08.2006	53		
Polyester staple fibres	Malaysia, Taiwan	12.04.2006	23.05.2007	21.06.2007	29		
Camera systems	Japan	18.05.2006	12.04.2007	31.07.2007	110		
Hot-dipped metallic-coated iron or steel flat-rolled products	China	14.12.2007	11.12.2008	07.02.2009	58		
Stainless steel cold-rolled flat products	China, Korea, Taiwan	01.02.2008	04.03.2009	17.04.2009	44		
Sodium metal	USA	23.07.2008	01.04.2009	12.06.2009	72		
Hollow sections	Belarus, Turkey, Ukraine	13.11.2008	03.06.2009	09.09.2009	98		
Ring binder mechanisms	Thailand	17.12.2008	18.12.2009	25.02.2010	69		
Stainless steel fasteners	India, Malaysia	13.08.2009	01.04.2010	15.07.2010	105		



6.0 Lack of adequate notice for expiry of duties

Under the provisions of the basic Regulation, the Commission is obliged to publish two notifications warning that existing anti-dumping (also countervailing) duties are to expire²³.

The first of these is a notice of impending expiry²⁴ which is published in the Official Journal “...at an appropriate time in the final year of the period of application the measures...” This normally occurs approximately six months before expiry and notifies Community producers that they may request a review no later than three months before the date of expiry (this privilege is not restricted to the original complainants).

The second is a notice of (actual) expiry which announces that since no request for a review was received the duties will shortly expire. Unfortunately, the basic Regulation does not specify a deadline for such a notice to be published, merely that “A notice announcing the actual expiry of measures...shall also be published.” As can be seen from the following tables²⁵, this leads to notices appearing the Official Journal within days of the actual expiry²⁶. On occasion, publication can be on the day of actual expiry²⁷ or even after the event²⁸.

The high level of non-transparency within the EU’s anti-dumping system is illustrated by the fact that requests by the EU industry to the Commission for an expiry review are treated as confidential; one only learns of a (successful) request when a notice announcing the initiation of an expiry review is published in the Official Journal.

With 63% of expiry notices being published within one week of the date of actual expiry (85% within two weeks) and expiry reviews initiated on or just before the date of expiry, retailer and importer interested parties have no way of knowing until effectively the “last minute” whether the measures in force will cease or whether they will continue for at least an additional fifteen months²⁹.

This lack of certainty creates difficulties for retailers and importers who need predictability in the supply chains to conduct their business in a cost effective manner. It is also completely unnecessary.

Admittedly, it is common practice for EU industry to file such requests at or just prior to the “three month before expiry” deadline. It is also evident that the Commission will require some time to assess those requests. However, it is unlikely that such an assessment would take almost three months to complete. Therefore, assuming that those requests are unsuccessful, there should be no reason why the Commission could not announce the fact that the measures will expire on the expected date much sooner than current practice.

In those cases when no request is received, and the Commission does not intend to initiate a review on its own initiative, there is no reason why this announcement could not be published three months before the expected expiry date.

There is nothing within the basic Regulation to prevent the Commission from complying with either of the above scenarios.

²³ Article 11(2)

²⁴ e.g. *Tartaric acid* (Commission notice 2010/C211/08 – OJ [2010] C211/11)

²⁵ Source: Eur-Lex

²⁶ e.g. *Bicycles* (Commission notice 2010/C188/06 – OJ [2010] C188/10)

²⁷ e.g. *Magnesium oxide* (Commission notice 2010/C135/09 – OJ [2010] C135/22)

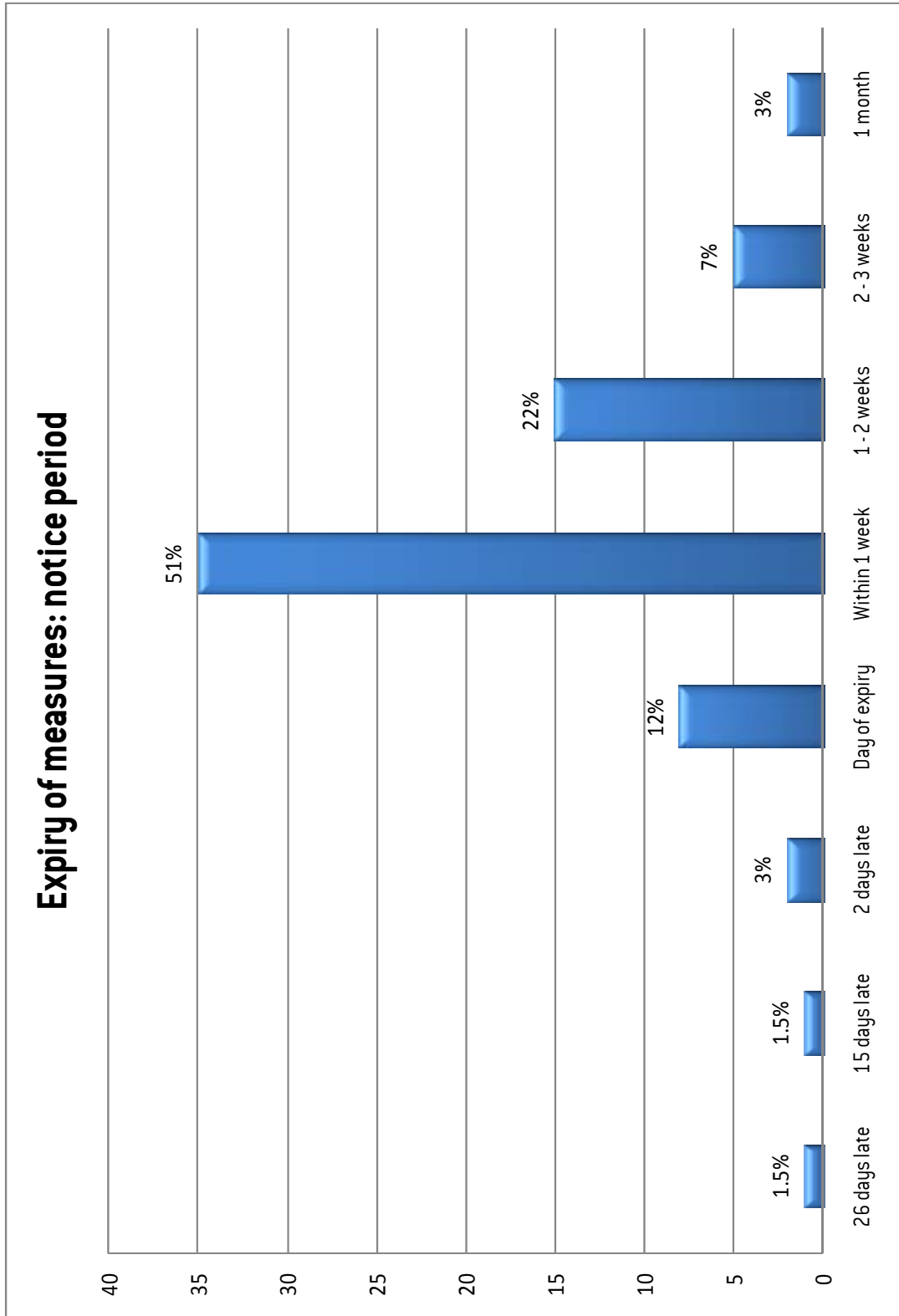
²⁸ e.g. *Compressors* (Commission notice 2010/C73/10 – OJ [2010] C73/39)

²⁹ Article 11(5) of the basic Regulation sets out a fifteen month deadline for an expiry review to reach a conclusion (and it is rare that a review will be concluded significantly sooner) during which time the measures remain in force and duties continue to be paid. If the measures are extended (normally by the standard five year term) the extension takes effect from the date the review concludes, rather than the original expiry date. It should be noted that if the review concludes the measures should be terminated any duties paid throughout the review are not reclaimable.

Anti-dumping and Countervailing duties: expiry notification							
Product	Countries	Implementing Regulation	Publication date	Expiry Notice DJ ref.	Date published	Listed date of expiry	Notice period (days)
Microwave ovens	China, Korea, Malaysia, Thailand	5/96	04.01.1996	2000/C374/06	28.12.2000	05.01.2001	8
Refractory chamottes	China	137/96	27.01.1996	2001/C17/06	19.01.2001	28.01.2001	9
Tube & pipe fittings	Croatia	584/96	03.04.1996	2001/C104/04	04.04.2001	04.04.2001	0
Magnetic disks	Malaysia, Mexico, USA	663/96	13.04.1996	2001/C111/03	12.04.2001	14.04.2001	2
PTY and POY	Turkey	1074/96	14.06.1996	2001/C165/04	08.06.2001	15.06.2001	7
RBMs	Malaysia	119/97	24.01.1997	2002/C16/07	19.01.2002	25.01.2002	6
Lighters	Thailand, Philippines, Mexico	423/97	06.03.1997	2002/C47/03	21.02.2002	07.03.2002	13
Bed linen	Egypt	2398/97	04.12.1997*	2002/C65/06	14.03.2002	28.02.2002	-15
Handbags (leather)	China	1567/07	02.08.1997	2002/C183/06	01.08.2002	03.08.2002	2
Zinc	Poland, Russia	1931/97	04.10.1997	2002/C240/03	05.10.2002	05.10.2002	0
Artificial carbonium	China	1951/97	09.10.1997	2002/C242/07	08.10.2002	10.10.2002	2
Advertising matches	Japan	2025/97	16.10.1997	2002/C243/07	09.10.2002	17.10.2002	8
Footwear (textile upper)	China, Indonesia	2155/97	01/11/1997*	2002/C255/03	23.10.2002	01.11.2002	9
Flat pallets of wood	Poland	2334/97	27.11.1997	2002/C280/03	16.11.2002	28.11.2002	7
Seamless pipes & tubes	Hungary	2320/97	25.11.1997	2002/C282/03	19.11.2002	26.11.2002	7
Fasteners (s.steel)	China, India, Korea, Malaysia, Taiwan, Thailand	393/98	20.02.1998	2003/C40/06	19.02.2003	21.02.2003	2
Fasteners (s.steel)	Malaysia, Philippines	1523/2000	14.07.2000	2003/C40/06	19.02.2003	17.02.2003	-2
Footwear (leather/plastic)	China, Indonesia, Thailand	467/98	28.02.1998	2003/C46/04	26.02.2003	01.03.2003	3
FeSiMg	China, Ukraine	495/98	03.03.1998	2003/C50/05	04.03.2003	04.03.2003	0
Potassium permanganate	India, Ukraine	1507/98	16.07.1998	2003/C162/04	11.07.2003	17.07.2003	6
Magnetic disks	Indonesia	1821/98	22.08.1998	2003/C187/04	07.08.2003	23.08.2003	16
MSG	Brazil, Korea, Taiwan, Vietnam	2051/98	29.09.1998	2003/C222/03	18.09.2003	30.09.2003	12
Stainless steel bars	India	2450/1998	14.11.1998	2003/C266/05	05.11.2003	15.11.2003	10
Hardboard	Bulgaria, Estonia, Latvia, Lithuania, Poland, Russia	194/1999	29/01/1999*	2004/C24/04	28.01.2004	29.01.2004	1
Bicycles	Taiwan	397/1999	25.02.1999	2004/C46/05	21.02.2004	26.02.2004	5
Polypropylene twine	Czech Rep., Hungary, Poland	603/1999	20.03.1999	2004/C67/03	17.03.2004	21.03.2004	4
*(Reg. 1602/2002 - pub'd 30.01.02 - suspended measures. Expiry on 28.02.02 unless review request rec'd by 14.02.02)							
*(Regulation entered into force on date of publication)							
(Countervailing duties)							

Anti-dumping and Countervailing duties: expiry notification							
Product	Countries	Implementing Regulation	Publication date	Expiry Notice Q/Ref.	Date published	Listed date of expiry	Notice period (days)
Stainless steel wire (1mm >)	India	1600/1999	22.07.1999	2004/C199/05	06.08.2004	23.07.2004	17
Stainless steel wire (< 1mm)	India	1599/1999	22.07.1999	2004/C199/05	06.08.2004	23.07.2004	17
Stainless steel wire (1mm >)	India	1601/1999	22.07.1999	2004/C199/05	06.08.2004	23.07.2004	17
Steel ropes & cables	Mexico	1796/1999	17.08.1999	2004/C203/03	11.08.2004	18.08.2004	7
Hot-rolled coils	India, Taiwan	284/2000	05.02.2000	2005/C26/02	02.02.2005	05.02.2005	3
Elec. weighing scales	Japan	468/2001	09.03.2001	2005/C52/03	02.02.2005	10.03.2005	8
Elec. weighing scales	Singapore	469/2001	09.03.2001	2005/C52/03	02.03.2005	10.03.2005	8
Potassium Chloride	Ukraine	969/2000	11.05.2000	2005/C89/02	13.04.2005	12.05.2005	29
Synthetic fibres of polyester	Australia, Indonesia	978/2000	12.05.2000	2005/C110/10	05.05.2005	13.05.2005	8
Hot-rolled flat steel	China, India, Romania	1758/2000	10.08.2000	2005/C192/02	06.08.2005	11.08.2005	5
Malleable tube/pipe fittings	Argentina, Brazil, China, Japan, Korea, Thailand	1784/2000	18.08.2000	2005/C192/02	06.08.2005	19.08.2005	13
SBS thermoplastic rubber	Taiwan	1994/2000	22.09.2000	2005/C232/02	21.09.2005	23.09.2005	2
Fluorspar	China	2011/2000	26.09.2000	2005/C235/02	23.09.2005	27.09.2005	4
Black colorformers	Japan	2263/2000	13.10.2000	2005/C254/03	14.10.2005	14.10.2005	0
Cathode ray tubes	India, Korea	2313/2000	20.10.2000	2005/C258/03	18.10.2005	21.10.2005	3
Elec. weighing scales	China Korea, Taiwan	2605/2000	30.12.2000	2005/C270/10	29.10.2005	01.12.2005	34
PET	Malaysia, Thailand	2603/2000	30.11.2000	2005/C304/09	01.12.2005	01.12.2005	0
Coke 80mm+	China	2730/2000	15.12.2000	2005/C320/05	15.12.2005	16.12.2005	1
Potassium permanganate	China	299/2001	15.02.2001	2006/C35/05	11.02.2006	16.02.2006	5
Magnetic disks	Hong Kong, Korea	311/2001	21.02.2001	2006/C40/08	17.02.2006	22.02.2006	5
Magnetic disks	China, Japan	312/2001	21.02.2001	2006/C40/08	17.07.2006	22.02.2006	5
Aluminium foil	China, Russia	950/2001	17.05.2001	2006/C112/02	12.05.2006	18.05.2006	6
PET film	Korea	1676/2001	23.08.2001	2006/C199/05	24.08.2006	24.08.2006	0
Int. gear hubs for bicycles	Japan	2080/2001	26/10/2001*	2006/C255/04	21.10.2006	26.10.2006	5
* [Regulation entered into force on date of publication]							
[Countervailing duties]							

Anti-dumping and Countervailing duties: expiry							
Product	Countries	Implementing Regulation	Publication date	Expiry Notice DJ ref.	Date published	Listed date of expiry	Notice period (days)
Zinc oxides	China, Vietnam	408/2002	05.03.2002	2007/C47/12	01.03.2006	06.03.2007	5
Zinc oxides with silica	China	1623/2003	18.09.2003	2007/C47/12	01.03.2006	06.03.2007	5
Ring binder mechanisms	Indonesia	976/2002	08/06/2002*	2007/C123/04	05.06.2007	08.06.2007	3
Ring binder mechanisms	Indonesia	977/2002	08/06/2002*	2007/C123/04	05.06.2007	08.06.2007	3
CD-Rs	Taiwan	1050/2002	18/06/2002*	2007/C130/09	12.06.2007	18.06.2007	6
Tube & pipe fittings	Russia	1514/2002	24.08.2002	2007/C190/05	15.08.2007	25.08.2007	10
Colour TVs	China, Korea, Malaysia, Thailand	1531/2002	29.08.2002	2007/C201/06	29.08.2007	30.08.2007	1
Polyester staple fibres	Belarus	1799/2002	11.10.2002	2007/C238/10	10.10.2007	12.10.2007	2
Polyester textured filament yarn	India	2093/2002	28.11.2002	2007/C280/08	23.11.2007	29.11.2007	6
CFL-i	China, Pakistan, Philippines, Vietnam	1205/2007	17.10.2007	2007/C258/04	10.10.2008	18.10.2008	8
Para-cresol	China	1656/2003	20.09.2003	2008/C264/07	17.10.2008	21.09.2008	-26
Silicon metal	Russia	2229/2003	24.12.2003	2008/C320/07	16.12.2008	25.12.2008	9
Bedlinen	India	74/2004	17.01.2004	2009/C4/06	09.01.2009	18.01.2009	9
Bedlinen	Pakistan	397/2004	04.03.2004	2009/C52/08	05.03.2009	05.03.2009	0
Rainbow trout	Faeroe Islands	437/2004	11.03.2004	2009/C57/04	11.03.2009	12.03.2009	1
PET	Australia	1467/2004	19.08.2004	2009/C181/08	04.08.2009	20.08.2009	16
Polyester staple fibres	Korea, Saudi Arabia	428/2005	17.03.2005	2010/C61/04	12.03.2010	18.03.2010	6
Compressors	China	261/2005	20.03.2010	2010/C73/10	23.03.2010	21.03.2010	-2
Magnesium Oxide	China	778/2005	25.05.2005	2010/C135/09	26.05.2010	26.05.2010	0
Bicycles	Vietnam	1095/2005	14.07.2005	2010/C188/06	13.07.2010	15.07.2010	2
GOES	USA	1371/2005	27.08.2005	2010/C230/07	26.08.2010	28.08.2010	2
*(Regulation entered into force on date of publication)							
[Countervailing duties]							



Conclusion

This paper has highlighted six areas where current Commission practice regarding how it implements the anti-dumping system is lacking in basic levels of transparency and predictability.

The types of improvements requested merely address the difficulties faced by EU retailers and importers when they become embroiled in the anti-dumping system; difficulties that scare off many from taking part in investigations, leading to conclusions based on limited information and which are therefore often flawed.

Acceding to these requests should not cause significant upheaval for the Commission – though it will require a change of practice and outlook – nor will it fall foul of legal restrictions within the basic Regulation or require any amendment to that Regulation.

It will, however, go some towards ensuring not only that the legitimate commercial interests of European retailers and importers are taken into account but that the system becomes more transparent, more predictable and more reasonable. We trust that the Commission will pay close attention to the wishes of EU retailers and importers and integrate the suggested improvements into its on-going programme to improve the transparency of the anti-dumping system and its internal "Total Quality Management" exercise.

For further information about the position paper, please contact:

Stuart Newman

stuart.newman@fta-eu.org

Direct tel: + 32 2 741 64 04