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

**40th Annual Report from the Commission to the European Parliament and the Council  
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 2021**

{SWD(2022) 294 final}

## EXECUTIVE SUMMARY

This is the 40th Report to the European Parliament and the Council covering the EU's anti-dumping (AD), anti-subsidy (AS) and safeguard (SFG) activities, as well as the trade defence activity of third countries against the EU in 2021 and the activities of the Hearing Officer.

Despite the ongoing difficulties in 2021 resulting from the COVID-19 pandemic, the Commission continued to robustly apply the trade defence instruments. Well-tested working methods, developed at the beginning of the pandemic, ensured that all investigations were conducted to the highest standards, guaranteeing the protection of EU producers against injurious unfairly traded imports.

Enforcement and effectiveness of measures is a primary concern for the Commission and the report stresses the improved monitoring practices put in place during the year. Mindful of the fact that actions to avoid paying duties could increase in the post COVID-19 recovery phase, the measures, especially those presenting an increased risk of duty avoidance, were subject to improved scrutiny. Where necessary, the Commission opened anti-circumvention as well as anti-absorption investigations, signalling to operators that the EU is intent on tackling these practices.

This report also addresses the implementation of legislative changes made in 2017/2018, adopted to ensure that the instruments can address policies and challenges in global trade. These include social and environmental standards in TDI, which are now taken into account in investigations where target prices were adjusted to account for future costs resulting from Multilateral Environmental Agreements to which the EU is a party. This resulted in higher duties in some cases ensuring that injury margins remain meaningful and measures bring effective relief to the EU industry.

Implementing the European Court of Auditors' recommendations from 2020<sup>1</sup>, following its audit of the EU's trade defence instruments, was a Commission priority during the year. Most of the recommendations were implemented in 2021. These actions reinforce the EU's already high standards in the application of the instruments.

In this context, helping small and medium sized enterprises understand what the instruments are and how they can be used and benefitted from was paramount.

In 2021, the Commission held third-country users of trade defence instruments to the same high standards that the EU applies to its investigations. Increasingly, our EU exporters are facing more third-country trade defence actions which, unfortunately, are often not conducted in line with WTO rules. Our interventions in third country investigations against EU industry/exporters, which aim at reducing the negative economic impact and eliminate unfair/unjustified imposition of measures, yielded a number of positive outcomes thereby ensuring continuation of market access for EU exporters.

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<sup>1</sup> [Special Report 17/2020: Trade defence instruments: system for protecting EU businesses from dumped and subsidised imports functions well \(europa.eu\)](#)

Finally, the report highlights the relationship between TDI and other EU policies. The EU's Trade Policy Review, published in February 2021, called for all trade tools to be used to support EU policy objectives. The trade defence instruments continue to play a very important role in that context, not only by protecting over 460,000 jobs, but by ensuring the EU's commitment to open fair trade as well as supporting other policy areas, such as the European Green Deal and the Digital Agenda for Europe by protecting EU production of crucial elements of the renewables and digital value chains.

The report, in line with the Commission's reporting obligations<sup>2</sup>, is accompanied by a Commission Staff Working Document, with annexes, providing more information and statistics.

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<sup>2</sup> Article 23 of the Basic Anti-Dumping Regulation (OJ L 176, 30.6.2016, p.21), of Article 34 of the Basic Anti-Subsidy Regulation (OJ L 176, 30.6.2016, p.55) and of Article 23 of the Basic Safeguards Regulation (OJ L 83, 27.3.2015, p.16).

# **1 APPLICATION OF TRADE DEFENCE INSTRUMENTS (TDI) IN 2021**

## **1.1 Investigative activity**

### *1.1.1 General Overview*

At the end of 2021, the EU had 163 definitive trade defence measures in force: 109 definitive anti-dumping (AD) measures (extended in 31 cases), 19 anti-subsidy (AS) measures (extended in 1 case) and 3 safeguard (SFG) measures. This is an increase of 13 measures over 2020. These measures protected over 462,000 direct jobs.

The level of investigative work in 2021 was in line with previous years. There were 88 investigations ongoing, comprised of 29 original investigations and 59 reviews, compared to 85 in 2020. At the end of 2021, 43 investigations were ongoing, the same as at the end of 2020.

In 2021, many sectors sought the suspension of trade defence measures to address negative market developments, particularly alleged disruptions to supply chains caused primarily by the COVID-19 crisis. This rarely used provision sets strict criteria for suspension. In October 2021, the Commission suspended, for 9 months, measures on aluminium flat products from China while introducing monitoring of imports of the product. In December 2021, the Commission rejected the suspension of measures on Birch Plywood from Russia as the conditions were not met.

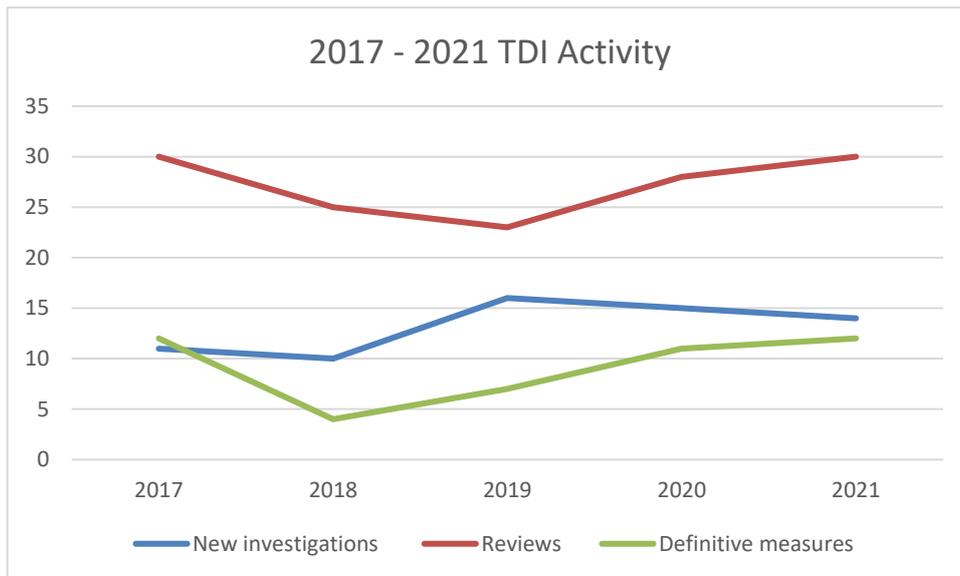
A Commission Staff Working Document (SWD), providing more information and statistics accompanies this Report and includes annexes for the sections below.

### *1.1.2 Anti-dumping and Anti-subsidy investigations (see Annexes A to I)*

In 2021, the Commission initiated 14 new investigations (11 AD and 3 AS) compared to 15 in 2020. It imposed provisional duties in 10 AD investigations and concluded 12 investigations by imposing definitive duties (11 AD and 1 AS). The Commission terminated one anti-subsidy investigation without imposing measures as the complaint was withdrawn.

Reviews of the measures in force initiated in 2021 increased slightly compared to 2020, 30 versus 28. These included 10 expiry and 4 interim reviews. 15 expiry reviews were concluded with a confirmation of the duty in 2021.

The total number of initiations of all types of investigations was 48, i.e. higher than in any of the previous five years.



### 1.1.3 Safeguard investigations

There were no new safeguard investigations initiated in 2021.

The Commission carried out a review of the EU’s safeguard measure imposed in 2019 on imports of certain steel products. This resulted, in July 2021, in its prolongation until 30 June 2024 and an adjustment of certain aspects. The Commission concluded that the measure continued to be necessary to prevent or remedy serious injury and that the Union steel industry was adjusting. The Commission found that during the period of the safeguard measure, the economic situation of the Union industry continued to worsen due to import pressure in a period where adjustments made by the industry had not yet produced positive effects. On 17 December 2021, the Commission initiated the third functioning review of the measure with possible adjustments to take effect on 1 July 2022.

### 1.1.4 Verifications in investigations

Stymied by the health risks and travel restrictions, the Commission continued verifying data submitted by interested parties by remote cross-checking rather than on-spot verifications.

Building on the experience developed in 2020, the Commission fulfilled its obligations while ensuring the rights of interested parties. In 2021, the Commission verified data from 197 companies by remote cross-checking. This included 111 European companies and 86 outside of the EU. As travel restrictions eased in the last quarter of 2021, 12 on-spot visits to EU companies took place. It is hoped that this signals a resumption of more on-spot verifications in future.

## **1.2 Effective application and enforcement of TDI**

### *1.2.1 Implementation of recommendations of European Court of Auditors - Audit of the EU's TDI*

In 2021, the Commission worked on implementing the recommendations from the European Court of Auditors' audit report of the EU's Trade defence policy (published in July 2020). The recommendations were: the European Commission should (a) document its assessments of the confidentiality status of the documents from parties (b) seek additional communication channels to raise stakeholders' awareness (c) improve guidance on relevant competition aspects (d) improve monitoring activities and carry out regular evaluations of the effectiveness of trade defence measures (e) launch more investigations at its own initiative and (f) use clear criteria to prioritise the response to measures by third countries.

In response to these recommendations, in 2021 the Commission developed an IT based solution to document the confidentiality assessments of the documents which became operational in early 2022. In terms of raising awareness of TDI, the process was launched in 2021 to spread informative videos as well as develop a seven-module information package that was placed on-line early 2022 and will be disseminated through contact points in Member States and relevant stakeholders. Because of uncertainty related to COVID-19 pandemic, in-person information meetings with stakeholders were postponed. Regarding competition aspects in trade defence investigations, the Commission developed guidance for stakeholders/interested parties as well as case-handlers on how to address these issues in investigations.

Of the remaining recommendations, the Commission developed a new monitoring policy in 2021, with a robust risk-based prioritisation, enhanced coordination with associated services in the Commission (OLAF, DG TAXUD and DG BUDG) and external stakeholders, as well as improved documenting and reporting of results. This new monitoring policy, effective from December 2021, will be evaluated in 2023. The Commission did not fully accept the recommendation on *ex officio* investigations as it considers it already uses the *ex officio* provisions to the fullest extent possible. Nevertheless, in 2021 the Commission set out, on its website, more information regarding *ex officio* investigations in order to address certain misconceptions and provide more guidance for the European industry. As regards monitoring trade defence actions of third countries, in 2021, the Commission established criteria to identify those that present the most important economic and systemic interest, as well as where there is high degree of cooperation by European exporters. Finally, the Commission will carry out the evaluation of the effectiveness of trade defence measures in 2023.

### *1.2.2 Monitoring and Enforcement of measures (see Annexes J, K, M, Q)*

With trade enforcement high on the agenda of the von der Leyen Commission, monitoring of existing trade defence measures remained one of the key priorities also in 2021. Particular attention was given to those trade defence measures where an increased risk of duty avoidance was detected. The robust implementation of measures is crucial to preserve the effectiveness and the credibility of the Commission's enforcement policy. The Commission is fully

determined to address any circumvention practices, reduction of the export price and absorption of the resale price that undermine the effectiveness of the measures.

Circumvention takes place when exporting producers in third countries engage in practices like shipping the product through a country not subject to duties (transshipment), slightly modifying the product so that it does not fall under the duties, or exporting through an exporting producer with lower individual rates of anti-dumping or countervailing duties (company channelling). Another practice is the absorption of the duty when exporters, despite the imposed measures, decrease their prices to overcome the duties or importers do not reflect the duty when reselling the product in the Union.

The Commission takes action against these practices identified either through monitoring or by information received from interested parties. To identify the potential problems as early as possible, a risk-oriented prioritisation of monitoring tasks is used. Attention is given to those measures where an increased risk of duty avoidance was detected during the investigation and a special monitoring clause is integrated in the Regulations imposing measures. The aim of this clause is to minimise the risk of circumvention through company channelling. In 2021, among others, such clause was integrated in the measures applied to imports of aluminium converter foil and aluminium extrusions from China, hot-rolled flat iron products from Turkey, and birch plywood from Russia.

Monitoring involves in-depth analysis of imports of the product subject to a trade defence measure, including monitoring trend/dynamics of the export from the country subject to the measures. This gives a complete picture of trade flows and market developments after the measures were imposed. The Commission uses internal databases, fed by customs authorities and statistical offices at both EU and Member States' level, and, if necessary, commercial databases. Additional market information, from the Union industry, together with findings on non-compliance with measures documented by OLAF as a result of its investigations or the Member States' authorities are also taken into account.

At the end of 2021, a total of 54 products under the trade defence measures were subject to special monitoring. The Commission alerted national customs authorities to pay particular attention to imports of products subject to TDI measures where there were concerns e.g. transshipment. OLAF was notified where the Commission had information signifying fraudulent activity on imports. OLAF also notified the Commission with relevant enforcement-related information. Close contacts between the Commission and Union industry ensured more complete information on market developments to facilitate the most efficient follow-up actions.

The Commission also scrutinised over 10 price undertakings with exporting producers in 2021 and found they were complying in full.

In recent years the Commission has noted new ways by exporting producers, notably from China, to evade duties for example by shifting certain operations to other countries without real economic justification, and exporting from there to the EU. The Commission has been persistent in its response to close all loopholes to protect EU industry from injury.

In 2021, the Commission initiated 4 anti-circumvention investigations and 1 anti-absorption investigation bringing the total number of such investigations initiated in the last three years to 11 and 2 respectively.

The 4 anti-circumvention cases initiated concern an increase of imports of glass fibre fabrics from Turkey and Morocco after anti-dumping and countervailing duties were imposed on these products originating in China and Egypt in 2020. Glass fibre fabrics are used, for instance, for the production of blades for wind turbines, in the boat, truck and sport equipment production, as well as in pipe rehabilitation systems. The investigations focused on transshipment after the product concerned went through assembly operations in Turkey and Morocco respectively. Those cases are emblematic of the challenges posed by China's Belt and Road policy and the Commission's determination to take robust action against unfair trade resulting therefrom.

The anti-absorption investigation initiated in 2021 also concerns glass fibre fabrics. It investigates whether the Egyptian exporting producers have decreased their prices to undermine the effectiveness of the anti-dumping duties imposed in 2020.

Additionally, in 2021 the Commission extended measures following 2 anti-circumvention investigations. It was established that the anti-dumping duties currently in force on two different types of aluminium household foil from China were being circumvented via Thailand, where the product was only subject to minor assembly operations. The affected EU industry consists mainly of SMEs spread through 12 Member states.

This shows the Commission's determination to tackle all forms of unfair trade, including circumvention and absorption of trade defence measures.

### *1.2.3 Surveillance measures*

Where there is an indication, and often based on information from the industry concerned, that there is a significant increase of imports of a certain product that poses a threat of injury to the Union industry, the Commission can introduce surveillance measures to also monitor such imports<sup>3</sup>. In 2021, the Commission continued its retrospective surveillance on steel and aluminium imports which had been introduced in May 2020 replacing the prior surveillance system. The Commission also monitored, via retrospective surveillance, imports of renewable ethanol for fuel.

The Commission publishes the surveillance data monthly on the 'surveillance/ monitoring of imports' public page<sup>4</sup> of DG Trade's website.

### *1.2.4 Protecting European small and medium sized enterprises (SMEs)*

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<sup>3</sup> Article 11 of Regulation (EU) 2015/478 of 11 March 2015, OJ L86, 27.3.2015, p.16.

<sup>4</sup> <https://webgate.ec.europa.eu/siglbo/post-surveillance>

In order to ensure that the resource limitations of SMEs are not an obstacle to using the trade defence instruments, the Commission provides full support and guidance to such companies.

In 2021, the Commission made additional efforts to ensure that SMEs know about, and benefit from, the instruments, including through its SME helpdesk. This includes a reduced requirement on information to be provided in questionnaires and, where possible, investigation periods aligned with their financial year. Also in 2021, the Commission developed an on-line information package explaining the instruments in plain terms with plans for further video tutorials. In-person information sessions for SMEs in Member States will be resumed once COVID-19 related conditions allow.

The Commission's efforts bear results. Sectors characterised by SMEs continued to be involved in trade defence proceedings in 2021. During the year, the Commission initiated an anti-dumping investigation on imports of Ceramic tiles from Turkey and India, the anti-dumping investigation on imports fasteners from China continued and the expiry review concerning trout from Turkey was finalised with measures being extended for another 5 years. While largely characterised by SMEs, through good coordination on their side along with guidance and support from the Commission, the industries concerned benefit from the same rights and protection from unfair trade as larger companies.

### **1.3 Developments in 2021 relating to the legislative changes in 2017 and 2018**

#### *1.3.1 Social and environmental standards in TDI*

The EU's commitment to high social and environmental standards is reflected in certain aspects of anti-dumping and anti-subsidy investigations since the 2017 and 2018 legislative changes. These include:

- When investigations concern countries with significant market distortions there is a need to select an appropriate representative country to construct a non-distorted normal value. When there is more than one country with suitable data available, the Commission chooses, taking into consideration the level of social and environmental protection in the countries proposed.
- When calculating an injury margin in investigations, the cost of compliance with multilateral environmental agreements and International Labour Organisation Conventions during the lifetime of TDI measures is built into the EU industry's costs of production and, in some instances, when deciding to accept undertakings.

As regards the selection of an appropriate representative country, in the investigations concluded in 2021, the issue of social and environmental standards did not arise, as suitable data was available for only one representative country in each case.

The Commission included the cost of compliance with multilateral environmental agreements and International Labour Organisation Conventions when calculating the target profit price in several cases completed in 2021. This is particularly relevant with regard to the Emission Trading System. The investigations affected included Aluminium Extrusions, Aluminium Converter Foil and Aluminium Flat Products all from China, Stainless Steel Cold Rolled Products (SSCR) from India and Indonesia and Birch Plywood from Russia. This increased the

target price for these industries as it included the future costs resulting from Multilateral Environmental Agreements to which the Union is a party, which the Union industry will incur during the lifetime of the measures. In the two cases where the duty was based on the injury margins (aluminium converter foil and aluminium flat products), the adjustments made for the costs of social and environmental standards increased the level of measures imposed.

The issue did not arise in the context of undertaking offers in 2021, as they were rejected for other reasons.

### *1.3.2 Lesser duty rule*

Under WTO rules, measures can be imposed at the level of the dumping or subsidy margin. Prior to the legislative changes in June 2018, the EU always applied the lesser duty rule (LDR). This meant measures were always imposed at a level lower than the full extent of dumping or subsidisation, if a lower level, called the ‘injury margin’, was enough to remove the injury suffered by the EU industry. However, since the TDI modernisation the LDR is not automatically applied in anti-dumping and anti-subsidy cases.

In anti-subsidy cases the LDR no longer applies unless it is against the overall interest of the EU to do so, ensuring that the EU can tackle the unfair subsidised imports more rigorously. In one anti-subsidy investigation completed in 2021 (Aluminium Converter Foil from China) the Commission imposed the duties at the full rate of the subsidy margins on this basis.

In anti-dumping cases, measures can be imposed at a lower level than the dumping margin if such lower level is sufficient to remove the injury caused by the dumped imports. In case significant distortions in the price of raw materials are found in the exporting country, a duty at the full dumping margin is considered to be necessary to address the injurious dumping practice. The distorted raw material must account for more than 17% of the cost of production and its price should be significantly lower than undistorted prices.

In 8 out of the 11 cases completed, measures were based on the dumping margins as these were lower than the injury margin and, in line with the legislation, the highest level which could be imposed. For the three remaining cases, duties were based on the injury margins as these were lower than the dumping margins and the criteria concerning export restrictions on key raw material were not met i.e. in Aluminium flat products and Aluminium converter foil from China, the prices for the distorted raw materials were not significantly lower than international market prices and, in the steel wind towers from China case, the issue was not raised.

## **1.4 Judicial review by EU Courts (Annex S)**

In 2021, the General Court (GC) and the Court of Justice (CJ) rendered 21 judgments and orders in TDI cases: the GC handed down 14 rulings whereas the CJ rendered four preliminary rulings and decided on three appeals. 18 new TDI cases were lodged in 2021 - 12 before the GC and 6 appeals before the CJ.

The jurisprudence in 2021 provides interesting insights into the admissibility of legal actions against TDI measures, particularly into the question of standing and ability of importers and users to launch court proceedings in such cases.

In 2021, the GC rendered its first judgement on the articulation of safeguard measures and anti-dumping/countervailing measures. Moreover, the CG confirmed the Commission's practice to implement adverse Court rulings by repairing any illegality identified by the Court and to reimburse duties only to the extent that the corrected duty is lower. Other issues the Courts dealt with in 2021 included the methodology used in refund investigations, lasting nature of change in interim reviews, various aspects of dumping calculations, injury and causal link assessment and use of facts available.

The most important judgments are described in the Staff Working Document.

## **2 ACTIVITIES OF THE HEARING OFFICER**

In 2021, the Hearing Officer received 25 intervention requests and held 15 hearings. Whenever parties submitted the request for an intervention simultaneously with a request for a hearing with the Commission services responsible for the investigation, the Hearing Officer maintained the approach that the interested parties should first address their concerns to the Commission services. The Hearing Officer would only intervene when a solution was not reached. This enabled the interested parties to find a solution directly with the investigation teams in many of the cases. The Hearing Officer also received a request for a confrontational hearing, which finally took place with the services in charge.

On two occasions, the Hearing Officer extended the deadline for comments upon request of the parties concerned. The Hearing Officer recommended to the Commission services to make available certain information to all parties in the non-confidential file. The main issues raised at the hearings concerned requests for additional disclosure, anonymity and confidentiality. Two parties requested that the measures to be imposed should be suspended at the time of their adoption. However, the conditions were not fulfilled. In another case, the party refused to provide the documents for the file necessary for the verification of the relevant information by the Commission, claiming that, instead, the services should have undertaken an on-spot verification. However, this was not feasible in the COVID-19 context. In the other cases, agreement was reached with the services to review the issues at hand, or provide clarifications requests remained irregular due to the continuing COVID-19 context but holding hearings was simpler with the elimination of travel.

## **3 DEALING WITH TRADE DEFENCE ACTIVITY AGAINST THE EU**

The Commission intervenes where European exports are hampered by third countries imposing unjustified trade defence measures. While third countries are fully entitled to use the instruments, it is imperative that WTO rules are followed and the trade defence measures do not become de facto trade barriers. Given the importance of exports for the European economy and their contribution to jobs and growth, the Commission intervenes with the aim of reducing the negative economic impact of any measures or to avoid the imposition of unjustified trade defence measures on EU exports altogether.

The Commission's interventions in third country cases range from technical written submissions to participation in hearings to making both written and oral representations at political level, if necessary.

Examples of the Commission activity in 2021 included participation in hearings conducted by the Canadian authorities on the AD and AS cases on refined sugar, with support from DG AGRI. Other trade defence cases were discussed in the regular trade committee meetings with the Gulf Cooperation Council (GCC), Canada or South Africa. The Commission also raised cases in the World Trade Organisation (WTO) AD and SFG committees. These interventions were coordinated with both EU industry and Member States with priority given to cases with a significant economic impact for European business and those with systemic problems.

In cases where unjustified measures cannot be avoided, the Commission may resort to WTO action. It did so in the US AD and AS measures on Spanish ripe olives imposed in 2018. In this dispute, the Panel report, in favour of the EU, was adopted on 20 December 2021. Another WTO panel proceeding regarding the Colombian AD measures on frozen fries continued in 2021. The first and second substantial meetings took place on-line in July 2021 and January 2022 respectively.

Interventions by the Commission, highlighting legal inconsistencies and systemic flaws in cases have played an important part in preventing the imposition of the unjustified measures. Some successes in 2021 were:

- India terminated an AD investigation on imports of flat rolled products of stainless steel in March 2021 without imposing measures. This was an important outcome given the economic interest at stake of around €98m. The Commission, in close cooperation with the industry, actively intervened in the case from the outset with three written submissions and participation in the public hearing.
- In September 2021, the Gulf Cooperation Council Ministerial Committee did not approve the Permanent Committee's proposal to impose definitive safeguard measures on imports of certain steel products.
- The Commission's interventions in an AD investigation by Ukraine into imports of aluminium ladders from Poland and Slovakia succeeded in the investigation being terminated in October 2021.
- In May 2021, New Zealand terminated an AD investigation on imports of frozen fries from Belgium and the Netherlands, sparing exports valued at €3 m. This was in part thanks to the Commission's written interventions, in coordination with the EU industry, which demonstrated that the conditions to impose AD measures were not met.
- In October 2021, Canada initiated an ex officio re-investigation to reassess the AD and AS measures on imports of refined sugar originating in the EU. This was the result of the numerous interventions by the Commission explaining that these countervailing measures are based on old EU subsidy schemes and do not reflect the current, significantly lower, levels of subsidisation. The AS duty was reduced considerably (58% to 9%). Canada found that the decoupled direct support payments under the EU Common Agricultural policy are not specific and not actionable.

At the end of 2021, there were 177 trade defence measures in force affecting EU exports, one less than last year which had been the highest number in the Commission's monitoring activity.

The AD instrument remains the most used instrument globally, accounting for 128 of the 177 measures in force. 42 of the measures were SFG (compared to 39 in 2020) and 7 were AS measures.

The 26 new investigations opened in 2021 concern comprise 17 AD and 9 safeguard

proceedings (compared to 22 in 2020).

The US has the highest number of measures against EU exports, with 37 measures in force, followed by China with 19, Turkey with 17, Brazil, Canada and India with 12, followed by Indonesia with 11.

Steel products account for the highest number of measures, 62, followed by chemical products with 48 measures, agricultural products with 22 measures, textiles with 12 measures and paper with 10 measures.

#### **4 ACTIVITIES IN THE FRAMEWORK OF THE WTO**

In 2021, the WTO held meetings of the Subsidies and Countervailing, Anti-dumping and Safeguards Committees in virtual format in April and October. The Informal Group on Anti-Circumvention did not meet. The Anti-dumping Working Group on Implementation met in October 2021.

The Commission submitted the EU's Subsidy notification to the WTO in July 2021. This transparency facilitating exercise is crucial in understanding the level and impact of subsidies granted by WTO countries. Unfortunately, the track record on members submitting notifications has been poor so the Commission urged them to meet their obligations.

In the AD Committee, the EU raised a review investigation on imports of frozen chips / fries from Belgium and the Netherlands by the South African Customs Union (SACU); a review of measures on refined sugar from Denmark, the Netherlands, UK and Belgium by Canada and the preliminary AD duties on imports on common alloy aluminium sheet originating in seven EU Member States by the US.

In the Committee on Subsidies and Countervailing measures, discussion took place on the role of below market financing in contributing to overcapacities. There was also an exchange on the harmful impact of overcapacities on the environment as well as loss to investment in R & D by competing industries.

During the WTO Safeguard Committee meetings, the EU raised the following investigations: Indonesia: Articles of apparel and clothing accessories, Morocco: hot rolled steel, wire rods and reinforcing bars, cold rolled sheets, lighting columns, South Africa: steel screws with hexagon heads, Turkey: polyester staple fibres, and Ukraine: sodium hypochlorite, PVC profiles. The EU defended its safeguard measures on certain steel products, which were subject to criticism from India, China, Russia, Japan, Switzerland and Korea.

In instances where unjustified TDI measures are imposed, the Commission can resort to WTO dispute settlement, in particular when significant systemic issues have been identified. There is currently one on-going dispute settlement procedure brought by the EU, concerning the Colombian AD duties on frozen fries from Belgium, Germany and the Netherlands. The final Panel report in this proceeding is expected after the summer 2022. In the proceeding concerning AD and AS duties imposed by the US on imports of Spanish ripe olives, the Panel report was adopted on 20 December 2021. On 1 July 2022, the parties agreed on a reasonable implementation period for the US which will expire on 14 January 2023.

In November 2021, Executive Vice-President and Commissioner for Trade, Valdis Dombrovskis met virtually with the Trade Ministers of United States and Japan to renew their trilateral partnership. They agreed to identify and tackle the global challenges of market-

distortive policies and practices that are currently not sufficiently addressed by WTO rules nor by the existing enforcement tools. The ministers agreed to pursue trilateral discussions on three focus areas:

- Identification of problems due to non-market practices
- Identification of gaps in existing enforcement tools, and where further work is needed to develop new tools to address such practices, as well as discussing cooperation in utilizing existing tools
- Identification of areas where further work is needed to develop rules to address such practices

## **5 TRADE DEFENCE IN SUPPORT OF OTHER EU POLICIES**

In the EU's 'Trade Policy Review – An Open, Sustainable and Assertive Trade Policy' published in 2021, the need to align and use all trade tools in support of EU policy objectives was highlighted. In this context, the trade defence instruments play an important role. While their main objective is to protect EU producers against unfairly traded imports, by doing so they help reinforce the EU's commitment to open markets and free and fair trade and contribute to the goal of the EU's open strategic autonomy. Intrinsic in trade defence are the concepts of competitiveness, fairness and rules-based trade, some of the key elements underpinning the EU's trade policy objectives.

By ensuring a level playing field and fair competition for the EU producers, trade defence instruments contribute to growth, job stability, revenues and investment. It is imperative that EU industry is able to invest, inter alia, in research and development to strengthen its viability and its ability to meet objectives set out in broader policy initiatives such as the Green Deal and the Digital agenda.

Concretely, in the context of the Green Deal, measures imposed on products or inputs such as glass fibre fabrics (used in manufacture of blades for wind turbines) from China and Egypt and solar glass (used in manufacture of solar panels) from China, protect important EU-produced elements of the sustainable energy value chain against unfair trade practices. In 2021, anti-dumping measures were imposed on wind towers from China, also an important product in the context of the EU's renewable energy and CO<sub>2</sub> reduction targets. Rather than impeding renewable energy targets, as brought up by certain stakeholders, the Commission underlined that without investment in modern manufacturing and research & development, the European industry would lose its place in the global race for technology leadership in wind energy. Measures will support the wind tower producers in the Union and generate growth, job stability, revenues and investments. In turn, users should benefit from a broad base of competitive, reliable and financially sound steel wind tower producers in the Union. Without addressing the unfair competition from Chinese imports, this would not be possible. The Commission concluded that, measures would contribute to wind energy deployment across the Union by creating a level playing field where all economic operators, including Chinese producers, could compete under fair conditions.

In the context of the EU's Digital agenda, the AD measures imposed on imports of optical fibres from China in 2021 play an important role. Optical fibre cables are used in creating fast broadband networks. Such networks are crucial to support home working, home learning,

running business or providing services by citizens, businesses and public entities across the EU. Given that one of the main priorities of the European Union is the deployment of high technology broadband infrastructure across the entire EU, optical fibre cables are key in this context and for the EU's Digital Decade and the EU's digital sovereignty. Some interested parties argued that anti-dumping measures would lead to increases in the total price of network projects. However, the Commission found that the cost of optical fibre cables represents only a minor share of total network project costs and would not have a significant impact. Without measures to address the unfair trade practices of the Chinese exporters, the future of the EU industry would be jeopardised as it would face further financial deterioration in terms of profitability and investments. Given the important role of this industry in the EU's digital agenda, ensuring that it remains viable and is not weakened by unfair imports and unfair competition, is crucial.

It should be recalled that the imposition of measures, where justified, does not prevent imports from third countries competing fairly on the Union market. While it is acknowledged without measures, users, importers, final customers and public budgets may benefit from cheaper products in the short term, dumped imports inevitably drive Union producers out of the Union market. In the long run, this results in the loss of valuable sources of supply and potentially in increase of import prices in the absence of competition from the Union producers. In turn this erodes the EU's industry base on which it builds other policies.

Therefore, by restoring fair competition, trade defence measures help maintain competitive, reliable and financially sound production in the Union. At the same time, the EU's balanced approach to the instruments, which includes applying the lesser duty rule in many circumstances as well as carrying out a Union interest test before imposing measures, ensures that users continue to benefit from a broad base of suppliers.

## **CONCLUSION**

2021 presented continued challenges in global trade as the EU returned to normal, post COVID-19. The EU continued, through the robust application of the trade defence instruments, to protect EU business from unfair trade. This contributed not only to the EU's overall trade policy objectives, but indirectly supported broader policy initiatives such as the Green Deal and the Digital agenda. Improved monitoring and enforcement of measures further strengthened the important role trade defence continues to play in building more resilient European business.