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**COMMUNICATION FROM THE COMMISSION**

**GLOBAL EUROPE**

**Europe's trade defence instruments in a changing global economy**

**A Green Paper for public consultation**

# GLOBAL EUROPE

## Europe's trade defence instruments in a changing global economy

### A Green Paper for public consultation

(Text with EEA relevance)

#### Introduction

The European Union, like most other importing economies, operates a system of trade defence instruments. These instruments – Anti-Dumping, Anti-Subsidy and Safeguard measures – allow the European Union to defend its producers against unfairly traded or subsidised imports and against dramatic shifts in trade flows in so far as these are harmful to the EU economy. It is important that we use these instruments effectively and rigorously to ensure respect of international trade rules and protect European interests against unfair trade.

The EU's use of these instruments is based on rules derived from the WTO agreements that establish trade defence instruments and the principles on which they operate as a legitimate part of the multilateral system of free trade. Like the urgent work to suppress counterfeiting and intellectual property theft, including through the abuse of electronic communications, defending against unfair trade is a politically and economically crucial part of defending free trade. It allows us to support the interests of European workers and European competitiveness, and is therefore an important part of helping Europe manage the consequences of globalisation.

The economic rationale for Anti-Dumping and Anti-Subsidy trade defence measures essentially follows from the fact that the international economy has no mechanism for correcting anti-competitive practice similar to the competition authorities that operate in almost all national economies. Furthermore, very few jurisdictions have formal rules or institutions for subsidy control similar to the European Union's state aid rules. Trade defence instruments have developed in international law as a means of correcting the trade distorting effects of uncompetitive practice at the international level.

European trade defence action over the last decade has eliminated the trade distorting effects of dumping in important sectors such as steel, chemicals and microprocessors that threatened the continued viability of these industries and their thousands of workers in Europe.

The EU has gone further than any other WTO member in unilaterally building on WTO rules to tighten conditions for use and focus the impact of trade defence action in its own market. The EU has produced a system of trade defence instruments that is arguably more open and more balanced than any other WTO member. The EU has also led the debate on reforming WTO rules on trade defence, which has been an integral part of the Doha Round. The faithful application of those internationally agreed rules by all members of the WTO is crucial for the functioning of the international trading system. This insistence that all must adhere to the agreed rules in this field must remain a guiding objective for our policy in future.

Nevertheless, in the decade since the 1994 Agreement on Anti-Dumping and the last major reform of EU trade defence instruments, there have been far-reaching changes in the global

economy and in the structure of the EU economy. These have been an important factor in the overall priorities of this Commission in promoting a new growth and competitiveness agenda. These priorities are set out in the Commission's contribution to the Hampton Court European Council: *European values in a globalised world*.

Many more EU companies now produce goods outside the EU for import into the EU, or operate supply chains that stretch beyond the EU market. These changes challenge familiar understandings of what constitutes EU production and the EU's economic interests. Because it is precisely these things that trade defence instruments are intended to defend, a periodic review can help us to ensure that the EU's trade defence instruments remain an effective response to unfair trading practices. This may also help to maintain strong political support behind the use of these necessary instruments across the EU.

The Commission has recently highlighted a new policy agenda designed to reinforce the EU's capacity to compete in a global economy marked by the growing fragmentation and complexity of the process of production and supply chains and the growth of major new economic actors, particularly in Asia (*Global Europe: Competing in the World*). This reflection on the EU's trade defence instruments is an integral part of that agenda. The Green Paper does not question the fundamental value of trade defence instruments, but invites a public reflection on how the EU can continue to use them to best effect in the European interest.

The Green Paper draws on the European Commission's experience of managing the use of trade defence instruments as well as on the results of a recent evaluation study of them. It also reflects informal contacts with EU Member States and the European Parliament and a series of papers submitted to EU Trade Commissioner Peter Mandelson by experts in the field of trade defence instruments in July 2006<sup>1</sup>.

The paper groups the issues into six themes;

- (1) the role of trade defence instruments in a changing global economy;
- (2) the weighting of different EU interests in trade defence investigations;
- (3) the launch and conduct of trade defence investigations;
- (4) the form, timing and duration of trade defence measures;
- (5) the transparency of trade defence investigations and;
- (6) the institutional structure of trade defence investigations.

For each group of issues it raises a series of questions to which participants to the consultation are invited to respond.

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<sup>1</sup> [http://ec.europa.eu/trade/issues/respectrules/anti\\_dumping/legis/index\\_en.htm#txts](http://ec.europa.eu/trade/issues/respectrules/anti_dumping/legis/index_en.htm#txts).

### **Box 1: Europe's trade defence instruments**

**Anti-Dumping.** Anti-Dumping rules are the European Union's most used form of trade defence instrument. Anti-Dumping measures address the import of goods to the European Union at less than their normal value in their home market – usually as a result of the lack of competition and/or state interference in the production process that allows an exporter to artificially lower the cost of an export. Dumping harms both EU producers but also other producers in third countries that compete for access to the EU market. Typical examples of distortions leading to dumping include: significant tariff and non-tariff barriers, insufficient enforcement of competition rules, export tax breaks; artificially low raw material and/or energy prices. Where an EU investigation shows that these imports are harming EU producers Anti-Dumping rules allow for remedial measures to correct the injury. Normally this is the imposition of a duty on the dumped import.

**Anti-Subsidy.** Anti-subsidy measures are similar to Anti-Dumping measures except they specifically correct the trade-distorting effect of WTO-actionable subsidies to foreign producers, where these subsidies can be shown to be harming EU producers.

**Safeguards.** Safeguard measures are different in that they do not focus on whether trade is fair or not, but on shifts in the volume of trade that are so swift and on such a scale that EU producers cannot reasonably be expected to adapt to changed trade flows. In these circumstances, WTO and EU rules allow for short-term restrictions on imports to give industry temporary relief in order to adapt to this sudden surge. This temporary breathing space goes hand in hand with the clear obligation to restructure.

Between January 1996 and December 2005, the EU imposed 194 definitive Anti-Dumping measures. The countries most frequently found to be involved in dumping were China (38 measures) and India (16 measures) during this period. As of 31 October 2006, the EU has 12 Anti-Subsidy measures in force. The EU has only ever imposed eight definitive safeguard measures under WTO rules: only one of these is still in force. In the EU, Anti-Dumping and Anti-Subsidy measures against unfair trade represent less than 0.45% of the value of total imports.

In comparison, the US imposed 201 definitive measures and India imposed 309 definitive measures between 1996 and 2005. In the same period the EU initiated 294 investigations, the US 352 and India 419 investigations.

The **European Commission** is responsible for the conduct of Anti-Dumping, Anti-Subsidy and Safeguard investigations, including decisions on whether to open investigations in response to industry complaints, and reviews during the life of current measures. It may also impose provisional measures and proposes definitive measures to the Council, where these are warranted. The **Council** imposes definitive Anti-Dumping/Anti-Subsidy measures by simple majority while Safeguard measures require the support of a qualified majority of Member States.

## **PART 1. What is the role of trade defence measures in a global economy?**

The economic justification for **Anti-Dumping measures** derives chiefly from the fact that international markets are imperfectly competitive – there is no international competition authority to regulate anti-competitive behaviour between countries. In contrast to an internal market like the EU, there are few rules that regulate business behaviour on international markets.

Anti-Dumping measures are the only tool provided for in international law to address the effects of unfairly traded imports from such markets on EU industry. Similarly **Anti-Subsidy measures** counter unfair subsidisation of producers in third countries in the absence of fully developed international means of limiting such intervention. **Safeguard measures** are targeted against imports that increase in such quantities as to cause or threaten to cause serious injury to the EU industry.

The EU currently initiates significantly more Anti-Dumping investigations than Anti-Subsidy investigations. One reason why companies are reluctant to request Anti-Subsidy cases is that they fear retaliation by the governments concerned. One solution to this might be for the Commission itself to initiate more Anti-Subsidy cases.

The economic justification for trade defence instruments remains controversial amongst economists. Some argue that trade defence instruments are needed in the absence of internationally agreed competition rules. Others believe trade defence measures cannot be economically justified from the perspective of the overall welfare of a country. Others argue that they could potentially be misused by sectoral interests as a means of obtaining protection from competitive imports. Yet others argue that Anti-Dumping action is only justified if an exporter in a third country benefits from a lack of, or insufficient enforcement of, domestic competition rules.

***Question 1:** What is the role of trade defence instruments in the modern global economy? Do trade defence instruments remain essential in order to ensure respect for international trade rules and to protect European interests? Should the EU consider how they might be improved?*

***Question 2:** Should the EU make greater use of Anti-Subsidy and Safeguard instruments alongside its Anti-Dumping actions? Should the Commission, in particular circumstances, be ready to initiate more trade defence investigations on its own initiative provided it is in possession of the required evidence?*

***Question 3:** Are there alternatives to the use of trade defence instruments in the absence of internationally agreed competition rules?*

## **PART 2. Weighing different EU interests in trade defence investigations**

Trade defence measures must serve the overall economic interest of the EU, including that of producers and workers. EU rules need to continue to address situations in which lower import prices are not driven solely by true comparative advantages in labour and production costs in third countries, but reflect the fact that those advantages are topped up by unfair competitive conditions such as subsidies or other state induced distortions.

Changes in the structure of both the global and EU economies have made determining the EU's economic interests more complex. Globalisation increases the international division of labour as transportation and communication costs have substantially decreased. Increasingly, European companies are using production bases outside the European Union whilst maintaining significant operations and employment in Europe. From the perspective of trade defence instruments, the challenge is to consider whether EU rules take sufficient account of the reality of outsourced production by European businesses, which are then in competition with EU-based production and might be negatively affected by trade defence measures.

It is not in the EU's long-term economic interest to tolerate dumping, even where it benefits European companies that have outsourced production to third countries. But we do need to reflect on the fact that action to limit the injury caused by dumping can impact on the employment and viability of EU companies that are operating legitimately through outsourced production. Striking the right balance between free trade and fair trade is crucial. We need clear rules that help us address this situation.

This part of the paper relates to four key issues related to the Community interest test.

### **Box 2: Case study - Anti-dumping measures on leather shoes, August 2006**

In October 2006 the European Union imposed duties of 16.5% and 10% on certain leather shoes imported to the European Union. These duties were the result of an investigation that found both dumping of these exports from certain third countries and consequent injury to EU producers. The application of EU and WTO rules in this highly complex case provoked divisions among EU economic operators and EU Member States. The case illustrated two of the important issues that this Green Paper considers.

**Outsourcing by EU producers.** Although many EU companies still produce leather footwear in the European Union, a significant number of EU companies have outsourced the production of footwear to third countries while keeping other parts of their operations in the EU. Those EU companies that produce leather shoes in the third countries concerned are subject to the Anti-Dumping duty. Moreover, under the existing rules for Anti-Dumping investigations, only producers that keep their production within the EU were considered in determining whether the required proportion of Community industry for the case to be initiated was met. Yet the number of EU companies that are moving elements of their production is growing and these companies account for thousands of jobs in the EU.

**Consumer interest.** The footwear case also illustrated another problem in the context of determining what is in the wider economic interest of the EU. In the majority of cases, especially those which do not concern consumer products, the impact of Anti-Dumping measures on the prices paid by the consumer have typically not been significant. Nonetheless, it is important to reflect on the question of whether and how consumer interests can be better reflected in Anti-Dumping investigations, and any measures taken.

**2.1. The Community interest test.** The EU is one of the few trade defence users that applies a public interest test in the form of the Community interest rule before applying Anti-Dumping measures. The Community interest rule states that measures can only be imposed where the Commission determines that imposing them is not against the wider interest of the EU economy. Such a test is not required by the WTO Anti-Dumping Agreement but it has proved a useful factor in weighing the balance of interests in Anti-Dumping cases.

However, some argue that the Community interest test is too strongly weighted towards EU producers and does not take sufficient account of the impact of measures on importing businesses that have moved some of their production outside the EU. There is also concern that consumer interests are not adequately weighted, especially when trade defence instruments are applied to finished consumer products. While the principal concern of the EU's instruments is responding to the effect of unfair competition, recent cases have also raised the question of using the Community interest test to weigh the impact of measures on the overall coherence of EU policy. For example, the EU might consider whether in some cases Anti-Dumping measures reduce the effectiveness of EU development assistance to a given country.

***Question 4:** Should the EU review the current balance of interests between various economic operators in the Community interest test in trade defence investigations? Alongside the interests of producers and their employees in Europe, how should we take into account the interests of companies which have retained significant operations and employment in Europe, even though they have moved some part of their production out of the EU? How should we take into account the interests of importers or producers who process affected imports?*

***Question 5:** Do we need to review the way that consumer interests are taken into account in trade defence investigations? Should the Commission be more proactive in soliciting input from consumer associations? How could such input be weighted? How could the impact of trade defence measures on consumers be assessed and monitored?*

***Question 6:** Should the EU include wider considerations in the Community interest assessments in trade defence investigations, such as coherence with other EU policies? With regard to development policy, should the EU make a formal distinction between least developed countries and developing countries in the application of trade defence measures?*

***Question 7:** What kinds of economic analysis might help in making these assessments?*

**2.2. Using the Community interest test to fine-tune trade defence measures.** Currently the findings of the Community interest test can only conclude that measures should either go ahead or not be imposed. In principle, this “either/or” test does not allow for Community interest analysis to be used as a rationale for adapting or modifying measures. However, it may be appropriate to introduce more flexibility in this respect provided that any adjustment of measures fully reflects the objective findings of the case. Such flexibility would be limited to downward adjustments by the EU's lesser duty rule which requires that duties be set at the injury margin or the dumping margin, whichever is lower. It could also in theory extend to the ability to exempt certain products from duties for Community interest reasons.

***Question 8:** Should it be explicitly foreseen that the level of proposed measures might be adjusted downwards following the results of the Community interest test in trade defence investigations? Should the EU explicitly allow for exclusion of certain product types under Community interest considerations? If so, what criteria should be applied?*



**2.3. Deciding when to apply the Community interest test.** Currently, a Community interest test is foreseen only following the initiation of an investigation at the time of determining measures. WTO rules prohibiting the publicizing of anti-dumping complaints prior to launching an investigation currently preclude the use of the Community interest test in assessing the strength of an initial complaint. However some stakeholders have suggested that the EU should press to see these rules changed.

*Question 9: Should the EU seek to have WTO rules changed to allow Community interest tests to be used at the complaints stage in Anti-Dumping and Anti-Subsidy investigations? Are there other situations where the community interest test would be appropriate – for example before the initiation of expiry reviews?*

**2.4. Viability assessments.** The overall viability of the industry in the EU is an element investigated in the Community interest test. Where there are good prospects for the viability of a particular sector this is an important factor in assessing whether to impose trade defence measures.

*Question 10: Are viability assessments relevant in reaching decisions on using trade defence instruments? If so, what criteria should be used in assessing the viability of EU industries in trade defence investigations, e.g. level of production, employment, market share?*

### **PART 3. The launching and conduct of trade defence investigations**

Stakeholders have identified a number of technical areas related to the launching and conduct of trade defence investigations where changes could further improve the proportionality, efficacy and fairness of EU trade defence investigations. Eight of these issues are addressed below:

**3.1. Early consultations with the exporting third countries.** While WTO rules prohibit contact with companies that may be investigated prior to the launch of a case, some stakeholders proposed contacts with exporting third countries' governments prior to launching investigations to help to avoid political frictions and discuss the products and practices likely to be implicated in an investigation.

*Question 11: Should the EU consider consultations with exporting third countries after receiving complaints and prior to launching Anti-Dumping investigations?*

**3.2. The use of the Anti-Subsidy instrument in transition economies.** Current practice does not foresee the initiation of Anti-Subsidy investigations in cases involving economies in transition because of the widespread nature of distortions of costs and prices in such economies. However, the use of the Anti-Subsidy instrument could be considered in cases in which individual companies in economies in transition are awarded market economy treatment.

*Question 12: Should the EU more specifically foresee the use of the Anti-Subsidy instrument in cases involving companies in transition economies that receive market economy treatment?*

**3.3. Standing requirements.** The EU imposes certain requirements that must be met for a trade defence investigation to be launched. WTO rules require that an investigation normally be initiated only when producers expressly supporting the complaint account for more than 25% of total production of the product implicated in the market concerned.

Under current rules businesses that both produce and import the allegedly dumped product may be excluded from the standing assessment. This has the effect of lowering the number of companies required to establish standing in a given case, and excluding companies that may object to a complaint. Some stakeholders consider these so-called 'standing requirements' too low.

*Question 13: Should the EU review the 'standing requirements' for the definition of Community industry in Anti-Dumping and Anti-Subsidy cases? Is the level of support needed to endorse a complaint and thus launch an investigation appropriate? Should we review the possibility of excluding companies which themselves import or are related to exporters from standing assessments?*

**3.4. De-minimis rules for dumping, subsidy and injury.** Under current rules, thresholds exist below which cases under investigation are not considered of sufficient importance to merit EU intervention. EU Anti-Dumping law stipulates that an investigation shall be terminated if the margin of dumping is less than 2% expressed as a percentage of the export price – this is called the 'de-minimis threshold'.

A de-minimis threshold is also applicable in the determination of injury from dumped goods. Proceedings are not initiated against countries whose imports represent less than 1% of the

EU market. The current *de-minimis* thresholds could be higher or lower, depending on the perceived economic impact of low dumping/subsidy margins and injury thresholds.

Besides these percentage thresholds, a second "*de-minimis* test" could be considered by making the opening of a case dependent on the value of imports in Euro.

**Question 14:** *Should the EU change the de-minimis thresholds (in percentage and absolute terms) that currently apply to dumping and injury in trade defence investigations?*

**3.5. Dumping margin calculations.** An important part of an Anti-Dumping investigation is the determination of the production costs and normal value of a product in the home market. Some stakeholders have suggested that the EU does not take sufficient account of the extent to which low volumes produced and sold at the start-up phase of a product can distort per-unit costs and might make them appear unrealistically high. This in turn could possibly inflate dumping margins.

**Question 15:** *Should the Commission refine the approach on "start-up costs" for dumping calculations in Anti-Dumping investigations in order to give a longer "grace period" to exporters in start-up situations?*

**Question 16:** *Are there other changes to the dumping margin calculation methodology in Anti-Dumping investigations – for example existing rules on the "ordinary course of trade-test" – that need to be considered?*

**3.6. Treatment of new exporters.** Stakeholders have proposed refining the provisions on the treatment of new exporters who begin exporting goods while an investigation is underway. New exporters raise the problem of basing findings on a very small number of transactions. The Commission can also currently only address new exporters that start to operate during the investigation through a separate newcomer review.

**Question 17:** *Should the EU refine the provisions on the treatment of new exporters in Anti-Dumping and Anti-Subsidy investigations? Should the EU introduce the possibility of dealing with newcomers that start to operate during the investigation of the main case more expeditiously?*

**3.7. Restructuring plans.** Some stakeholders think that EU producers should be required to present a restructuring plan before they benefit from Anti-Dumping measures. Others take the view that where the problems of an industry are the direct consequence of unfair trade practices, restructuring is irrelevant.

**Question 18:** *Is evidence of restructuring by an EU industry in any way relevant in Anti-Dumping and Anti-Subsidy investigations? If yes, in what way, and at what stage?*

**3.8. Involvement of SMEs.** Many stakeholders think that SMEs have difficulties in launching and participating in trade defence investigations because of the complexity and high costs involved.

**Question 19:** *What are the particular obstacles for SMEs to participate in trade defence investigations and how could they be addressed?*

## **PART 4. The form, timing and duration of trade defence measures**

Stakeholders have identified a number of areas related to the imposition, form, duration and expiry of trade defence measures that could be reviewed. We address four issues in this section.

**4.1. Timing of provisional measures.** Some stakeholders have raised the issue of faster adoption of provisional Anti-Dumping measures. At present they are adopted by the Commission between two and nine months after the launch of an investigation, if preliminary evidence points to a finding of injurious dumping.

*Question 20: Bearing in mind that any shortening of deadlines could impose limitations on the conduct and transparency of investigations, should the EU consider shortening the deadlines in Anti-Dumping and Anti-Subsidy investigations within which it must decide whether or not to impose provisional measures? Should these deadlines be made more flexible?*

**4.2. Form, timing and duration of measures.** Many stakeholders have said that the EU should have a greater choice of possible measures at its disposal than the standard *ad valorem* duties, fixed duties, minimum prices and price undertakings. This would give greater flexibility in dealing with complex cases which involve important consumer products. For example, should the Commission, to the extent that the Community's international obligations allow, generally have the possibility to apply a duty that phases in over time or with import volume, so as to give the market time to adapt?

Some stakeholders have also said that measures should take account of the impact on products that may have been ordered long before measures have been adopted or that are being shipped at the time of adoption.

Currently measures are normally in force for five years – the WTO maximum. It has been suggested that the duration of measures could be shorter, depending, for example, on the type of product, the market situation or the characteristics of an industry. The duration of measures imposed following expiry reviews could also be shorter.

*Question 21: Should the EU make greater use of more flexible measures in Anti-Dumping and Anti-Subsidy investigations?*

*Question 22: Do EU measures in Anti-Dumping and Anti-Subsidy investigations need to be adapted so as to take better account of products with a long order or shipment time? If yes, how?*

*Question 23: Should it be made explicitly possible for the duration of definitive measures in Anti-Dumping and Anti-Subsidy investigations to be shorter than 5 years? If yes, in what type of situations would a shorter duration of measures be justified?*

**4.3. Reimbursement of duties after expiry reviews.** Measures currently expire after five years unless an expiry review is initiated before that date. During the ensuing investigation (which can run for up to 15 months beyond the five-year period), measures remain in force. If the expiry review concludes that measures should not be maintained, consideration could be given to paying back any duties collected beyond the 'normal' five year period. An alternative

could be to carry out and conclude expiry reviews before the maximum lifetime of measures ends. With this approach reimbursement would not be an issue.

***Question 24:** Should duties collected beyond the 5-year duration of the measures in Anti-Dumping and Anti-Subsidy investigations be reimbursed if the expiry review concludes that measures are not to be continued?*

***Question 25:** Should expiry reviews in Anti-Dumping and Anti-Subsidy investigations be timed to end on the fifth anniversary of measures rather than to start on that date?*

**4.4. Higher thresholds for expiry reviews.** Some stakeholders think that it is too easy for Anti-Dumping measures to be renewed. Under WTO and EU rules, industry needs to show that there is "likelihood of recurrence of injurious dumping". A higher threshold for industry might be a "clearly foreseeable and imminent threat of injury".

***Question 26:** Should the EU increase thresholds for expiry reviews in Anti-Dumping and Anti-Subsidy investigations? For example should the EU consider introducing the "threat of injury"- standard instead of the "likelihood of recurrence"?*

## **PART 5. Transparency in trade defence investigations**

Effective transparency is vital to the credibility of trade defence instruments. EU rules represent a balance between openness in managing investigations and the need to respect the confidentiality of commercial information. The quality of analysis and resulting proposals depends strongly on the quality of the confidential information provided during an investigation. Stakeholders have raised a number of possible ways that the European Commission could nevertheless improve the transparency of trade defence investigations. Four of the aspects related to transparency are addressed below:

**5.1. Hearing officer.** Current EU rules foresee the possibility for interested parties to request hearings. Some parties have argued that a hearing officer would be helpful to ensure that parties in trade defence investigations can better exercise their right to be heard and to ensure that the rights of the parties are respected.

*Question 27: The Commission is going to create the position of a hearing officer for trade defence investigations - what precise functions should such a person carry out?*

**5.2. Public hearings for country-wide Market Economy Status decisions.** Certain countries are not considered market economies for the purpose of trade defence investigations – China and Vietnam for example. These countries can be awarded the status of market economy if they fulfil certain technical criteria. In view of the importance, complexity and political sensitivity of decisions to award country-wide Market Economy Status (MES), many stakeholders recommend holding public hearings prior to the Commission proposing to grant MES to a country.

*Question 28: Should the Commission conduct public hearings in Anti-Dumping investigations for decisions to award country-wide Market Economy Status to a country?*

**5.3. A level playing field for information.** Stakeholders have expressed concern about the uncertainty caused by rumours of possible complaints or investigations. The question has been raised whether the work of the advisory Anti-Dumping Committee could be rendered more transparent.

*Question 29: Should there be greater openness regarding the working of the Anti-Dumping Committee, e.g. publication of its agenda and/or the minutes of its meetings?*

**5.4. Better access to non-confidential files.** If parties want to consult the non-confidential file of an Anti-Dumping investigation, they currently have to do this in person at the premises of the European Commission. It would be possible to provide access to these materials online. However, some stakeholders might consider this an undesirably wide dissemination of non-confidential business facts.

*Question 30: Would it be desirable for the non-confidential files in trade defence investigations to be accessible via the internet? Would intermediary solutions be more appropriate – for example the publication of a file index?*

## **PART 6. Institutional process**

While the use of trade defence instruments can be politically sensitive, the credibility of those instruments depends on their use being transparent, predictable and subject to stringent review. The decisions which are taken must be based on the results shown by investigations. The current institutional structure, as set out by the EU's Basic Regulations on trade defence instruments, divides responsibilities between the Commission and the Council. Decisions are subject to review by the European Court of Justice, and must also be compliant with the EU's WTO obligations. This institutional framework has worked well, but some stakeholders are concerned that it sometimes allows decisions to be influenced by factors not directly linked to the facts of the investigation itself.

*Question 31: Should current institutional arrangements for adopting Anti-Dumping, Anti-Subsidy and Safeguard measures be maintained? Are there ways to improve the way those decisions are taken?*

## **Contributing to this Green Paper consultation**

Comments are invited from all interested parties, including the European Parliament and Member States, on the questions raised in this Green Paper. A structured questionnaire is available on-line to assist those responding and the Commission would welcome the views of all interested actors, including the views of public authorities in third countries.

The Commission invites respondents to raise issues related to the EU's trade defence instruments that are not directly addressed in the preceding questions.

***Question 32:** Is there any other aspect of the EU's trade defence instruments that you would like to see addressed?*

The consultation response forms can be found at:

[http://ec.europa.eu/trade/issues/respectrules/anti\\_dumping/comu061206\\_en.htm](http://ec.europa.eu/trade/issues/respectrules/anti_dumping/comu061206_en.htm)

Replies to the questionnaire should reach the Commission by 31 March 2007. Comments received will be made available on-line unless a specific request for confidentiality is made, in which case only an indication of the contributor will be given. Towards the end of the consultation period the Commission's services intend to organise a seminar with stakeholders. Following this public debate, the Commission will communicate the results of this consultation and consider if further action is appropriate.