

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS

Report from the Commission to the Council and the European Parliament: 15th Report: overview of third country trade defence actions against the European Union for the year 2017 and Commission Staff Working Document (Accompanying Document)

Submitted by the Department for International Trade on 5 November 2018

SUBJECT MATTER

1. The European Commission has now published its 15th annual report on 18 October 2018, which summarises the trade defence actions taken by third countries against the European Union (EU) in 2017. The EU has published a similar annual report in each year since 2003.
2. As the report explains in the introduction, trade defence instruments (TDIs) comprise three important trade measures – anti-dumping, anti-subsidy and safeguards – which are used to defend producers against unfairly traded and subsidised imports or against sudden or unforeseen increases of imports which might harm the EU's economy. Trade defence measures are integral to the EU's trade policy as well as elsewhere in a global trading environment which can only function on fair trading terms.
3. This report details that in terms of **new investigations**, the situation is stable, with 31 new investigations opened in 2017 compared with 30 in 2016. The total number of measures currently in force has increased slightly from 156 at the end of 2016 to 162 at the end of 2017.
4. The composition of new investigations changed slightly in 2017. The number of new anti-dumping and anti-subsidy investigations increased from 18 in 2016 to 22 in 2017, while the number of new safeguard investigations (which apply to fairly-priced imports from all third country sources and in theory affect EU exporters) decreased from 12 in 2016 to seven in 2017.
5. In 2017, 26 **new measures** were imposed compared with 2016, when 30 new measures were imposed. The Commission noted a marked decrease in the number of new anti-dumping measures, which decreased from 19 in 2016 to 15 in 2017. The number of new anti-subsidy measures imposed increased from one in 2016 to two in 2017. Nine safeguard measures were imposed in 2017, compared with 10 in 2016.
6. In 2017, the chemicals sector was subject to most new trade defence investigations (13 out of 31). Conversely, there were only six new investigations opened concerning the steel sector in 2017, contrasting

sharply with 2016, when there were 17 new steel investigations. In 2017, 16 of the measures imposed were against the steel sector, which is a direct consequence of the steep rise in steel investigations in the recent past. The Commission noted that in 2015 and 2016 excess capacity and overproduction in China triggered a global wave of trade defence investigations and measures in the steel sector.

7. The Commission also noted that, in addition to some recurring issues, such as the questionable use of the safeguard instrument, significant new risks emerged in 2017. In particular, the Commission noted the United States' adoption of a more aggressive stance and measures taken on national security grounds for the purposes of economic protection (i.e. the investigation on imports of steel and aluminium under section 232 of the US 1962 Trade Expansion Act). Although this activity was not primarily and specifically targeted at EU exports, EU interests were affected. According to the report, evidence shows that the US is also adopting a tougher stance in the enforcement of anti-dumping rules, both in terms of the number of investigations and the methodology used.
8. The Commission's approach when faced with trade defence activity against EU industries is to make technical interventions systematically during investigations. In 2017, the most significant case involving the UK case was the United States' anti-dumping and anti-subsidy investigations concerning large civil aircraft from Canada. Although primarily aimed at Canada, this was also important for the UK (Bombardier's plant in Northern Ireland produces wings for these aircraft) and other downstream suppliers in the EU. The Commission supported Bombardier's and the UK's position in these investigations. In January 2018, the US International Trade Commission found that imports of Bombardier's large civil aircraft did not injure the US industry and therefore blocked the imposition of 292% tariffs.
9. The Commission is also active in the WTO and will defend the interests of the EU in specific cases and to ensure full respect of WTO law, which acts as the international arbiter in trade disputes. If measures taken by other members are considered to violate WTO rules, the Commission may challenge them and request the establishment of a panel to consider the trade dispute case under the authority of the WTO's Dispute Settlement Body.
10. The accompanying Commission Staff Working Document includes a list of trends and main cases by country (Annex I), a list of measures in force at the end of 2015, 2016 and 2017 by country (Annex II), details of measures in force at the end of 2017 (Annex III), a list of new investigations initiated in 2015, 2016 and 2017 (Annex IV), details of new investigations in 2017 (Annex V), measures imposed in 2015, 2016 and 2017 (Annex VI) and details of measures imposed in 2017 (Annex VII).

SCRUTINY HISTORY

11. In 2017, the Department for International Trade submitted an Explanatory Memorandum relating to EU document 11549/17 on 15 August 2017 on

the “Report from the Commission to the Council and the European Parliament Fourteenth Report Overview of Third Country Trade Defence Actions against the European Union for the year 2016”. The House of Lords European Select Committee cleared it at Sift 1664 on 6 September 2017. The Commons EU Scrutiny Committee cleared it at their meeting in their 5th Report (Session 2017-19) on 13 December 2017 and drew the report to the attention of the International Trade Committee.

12. Previous EMs on annual reports submitted in years prior to 2017 were completed by the predecessor departments to DIT, namely the Department for Business, Innovation and Skills (BIS) and the Department for Trade and Industry (DTI).

MINISTERIAL RESPONSIBILITY

13. The Secretary of State for International Trade has primary responsibility for trade defence issues.

INTEREST OF DEVOLVED ADMINISTRATIONS

14. The UK’s policy in this area is a reserved matter under the UK’s devolution settlements, but the devolved administrations have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

15. None. This report concerns a review of the trade defence activities conducted by third countries during 2017 and is not a proposal for legislation.

FUNDAMENTAL RIGHTS ANALYSIS

16. No fundamental rights issues arise.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

17. Not applicable. This is an annual report and is not a legislative proposal.

SUBSIDIARITY

18. The Commission is reporting on third country trade defence activities in 2017 falling within exclusive EU competence, so no subsidiarity issues arise.

POLICY IMPLICATIONS (INCLUDING EXIT IMPLICATIONS WHERE APPROPRIATE)

19. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the EU. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and

apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

20. There are no immediate EU exit implications given that this is an annual report on third country trade defence activities in 2017. The report is primarily a list of decisions and measures taken by third countries against the EU. The report is published by the EU Commission in the interests of transparency. When the United Kingdom leaves the EU, the management of third country trade remedy activities will fall to the Department for International Trade.

CONSULTATION

21. Not applicable. This is not a legislative proposal. The report does not impose any costs or burdens on UK businesses.

IMPACT ASSESSMENT

22. Not applicable. This is not a legislative proposal.

FINANCIAL IMPLICATIONS

23. Not applicable. This is not a legislative proposal. There are no financial implications.

TIMETABLE

24. Not applicable. This is not a legislative proposal. This report is a summary of activity during the past year. The report is not subject to a vote in Brussels and will not be discussed further at Council level.

A handwritten signature in blue ink, appearing to read "Mr. George Hollingbery". The signature is stylized and includes a large, sweeping flourish at the end.

George Hollingbery MP
Minister of State for Trade Policy
Department for International Trade