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

**39th 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 2020**

{SWD(2021) 234 final}

EXECUTIVE SUMMARY

This 39th Report gives information on the EU's anti-dumping, anti-subsidy and safeguard activities, as well as the trade defence activity of third countries against the EU in 2020, in line with the Commission's reporting obligations.

The European Union is committed to open rules-based trade, supported by the tools to defend European industry against unfair trade practices. The Commission ensures that where industries are harmed because of unfair practices, such as dumped and subsidised imports, they can rely on the EU's trade defence instruments to provide an effective response.

The COVID-19 pandemic in 2020 tested the Commission's ability to apply the trade defence instruments because on-the-spot verifications could no longer be carried out. However, by swiftly adapting its work practices, the Commission completed investigations within legal time limits, fully respecting the rights of interested parties and its legal obligations. The number of cases remained in line with previous years' activity levels with an increase in the number of cases lodged towards the end of 2020.

The successful application of the EU's trade defence instruments by the Commission was confirmed in a report from the European Court of Auditors in July 2020. The Auditors found that procedures were followed properly leading to sound and comprehensive decisions. The report made a number of recommendations to further strengthen the Commission's response to the challenges posed by unfairly traded imports. The Commission started to implement a number of these recommendations in 2020 such as improving monitoring to ensure the effectiveness of measures.

Not least of these challenges is the need to tackle increasingly complicated and opaque subsidy programs granted by third countries, which damage European producers. In response to evolving subsidy practices, in 2020 the Commission countervailed, for the first time, subsidies granted by one country to manufacturing plants based in another country and exporting to the EU. The rationale was that the financial contribution provided by the third country could be attributed to the exporting country. The imposition of measures shows the Commission's ability and commitment to deal with new and innovative forms of subsidisation practices. A separate section of the report addresses the issue of subsidies.

A renewed focus on enforcement and effectiveness of trade rules in 2020 meant improved monitoring of measures, especially of those that presented an increased risk of being circumvented. Imposing anti-circumvention measures, monitoring imports, obtaining information from industry on market developments as well as alerting customs authorities to potentially risky imports underpinned the Commission's commitment to effective trade defence policy. A change to the surveillance of steel and aluminium imports in 2020 also

provided real import statistics allowing earlier identification of import trends that could harm the Union steel and aluminium industry.

Ensuring fair trade conditions for European producers also means dealing with trade defence actions taken by third countries against the EU, which reached their highest level in 2020.

While 2020 presented new and unique challenges in global trade, the Commission adapted and responded to these challenges and those posed by existing and new unfair trade practices and continued its enforcement of the EU's trade defence instruments.

1 APPLICATION OF TRADE DEFENCE INSTRUMENTS (TDI) IN 2020¹

1.1 Investigative activity

1.1.1 General Overview

At the end of 2020, the EU had **150** trade defence measures in force: **99** definitive anti-dumping (AD) measures (which were extended in 29 cases), **18** anti-subsidy (AS) measures (extended in 1 case) and **3** safeguard (SFG) measures. This is an increase of 10 measures as compared to the end of 2019.

Investigative work continued to increase, with a higher workload than in 2019, driven by a greater number of review investigations (54). At the end of 2020, **47** investigations were ongoing².

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

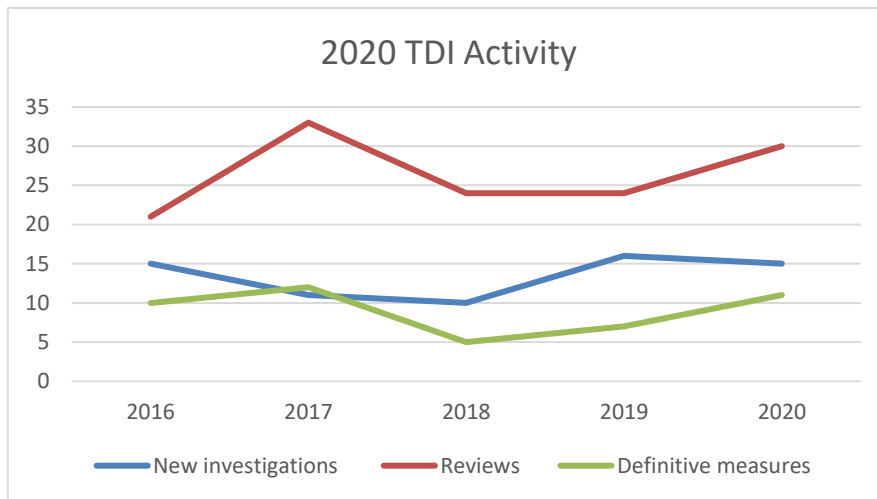
1.1.2 Anti-dumping and Anti-subsidy investigations (see Annexes A to I)

In 2020, the Commission initiated **15** new investigations (12 AD and 3 AS). It imposed provisional duties in **6** proceedings and concluded **11** cases by imposing definitive duties (8 AD and **3** AS). Five investigations were concluded without measures.

The number of reviews that were initiated increased compared to 2019. In 2020, the Commission initiated **21** expiry and **2** interim reviews resulting in 54 active review investigations during the period. **7** expiry reviews were concluded with a confirmation of the duty in 2020. 4 interim reviews were concluded with only 1 resulting in amendment of the duties.

¹ This part of the Report has been prepared pursuant to the updated provisions of 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).

² Complemented by 5 refund investigations, covering 82 individual refund requests by importers.



1.1.3 Safeguard investigations

There were no new safeguard investigations initiated in 2020.

Regarding the EU's steel safeguard measure imposed in 2019 as a reaction to the US Section 232 measures, the Commission carried out a second review, which resulted, on 1 July 2020, in an adjustment of certain aspects of the measure. These included, the introduction of quarterly administration of all Tariff Rate Quotas (TRQ), the implementation of country-specific TRQ in product category 1 (hot-rolled steel) and a new regime for accessing the residual TRQ in the last quarter of a period.

On 30 October 2020, the Commission initiated another review to adapt the volume of quotas under the safeguard measure, as a result of Brexit. These changes came into effect on 1 January 2021.

1.1.4 Verifications in investigations

In order to ensure the accuracy of the information provided by interested parties and the basis on which any measures are imposed, the Commission carries out on-the-spot visits to verify the data submitted during trade defence investigations.

Travel restrictions caused by the COVID-19 pandemic made normal verification procedures impossible for almost all of 2020, while safety measures and related constraints affected the activities of companies. In response, the Commission adapted its work practices in order to ensure that investigations continued while respecting due process, transparency requirements and meeting legal deadlines. This involved companies submitting sufficiently detailed information for analysis, setting up a system of remote cross-checking of the data by independent and verifiable sources as well as granting interested parties some flexibility on deadlines to submit data³. In total, the Commission carried out 26 on spot verifications and 83 remote cross-checks. While the remote cross-checking system has ensured the continued

³ Commission notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations, OJ C 86 of 16.3.2020 p.6.

implementation of the trade defence instruments in 2020, it is burdensome, demanding and only presents a temporary solution.

1.2 Effective application and enforcement of TDI

1.2.1 European Court of Auditors - Audit of the EU's TDI

In July 2020, the European Court of Auditors published its audit report of the EU's Trade defence policy covering the period 2016-2019⁴, in which it concluded that the Commission successfully enforces the policy. The report found that investigations led to timely measures being imposed, the Commission followed procedures properly, treated all parties equally and that the analyses underlying the decisions were sound and comprehensive.

At the same time, the European Court of Auditors recommended that, by the end of 2021, 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.

The Commission accepted all the recommendations, except for (e) relating to ex-officio investigations which the Commission accepted only partially as it considers it already uses the provisions in the legislation to the fullest extent possible.

The Commission started implementing the recommendations, in the required timeframe, by improving monitoring activities of measures in place, defining criteria for prioritising third country actions as well as examining ways to increase awareness of TDI among EU industries. Implementation of all recommendations will continue with the evaluation of the overall effectiveness of trade defence measures scheduled for 2023.

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

Given the central role of enforcement of trade measures in the von der Leyen Commission's agenda, the monitoring activity saw enhanced emphasis.

In 2020, the Commission monitored 41 trade defence measures that presented an increased risk of duty avoidance. Where relevant, the Commission alerted the customs authorities in Member States to pay particular attention to imports of the products in question. In addition, where the Commission had information suggesting fraudulent activity surrounding imports, it notified OLAF. The Commission maintained close contact with Union industry to get additional information on market developments and to decide on the most efficient follow-up action. The Commission also scrutinised the price undertakings in force to ensure that the exporting producers were complying in full.

⁴ <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=54349>

In line with its commitment to ensure effective application of measures, the Commission initiated 3 anti-circumvention investigations in 2020. The investigations tackle different types of circumvention, i.e. circumvention of measures through assembly operations in a third country and modification of the product. The Commission concluded 5 anti-circumvention investigations in 2020. It extended duties in 4 cases to cover imports from other third countries where transshipment was found to have taken place.

1.2.3 Surveillance measures

The Commission can introduce surveillance measures to monitor import trends, where these imports threaten to cause injury to Union producers⁵. There are two types: prior and retrospective surveillance. Prior surveillance makes imports subject to the presentation of an import licence, thereby giving information on the intention to import. With retrospective surveillance, import statistics are available fifteen days after the end of the reporting month, compared to Eurostat data available only 6 weeks after the end of the reporting month.

While surveillance is normally introduced by a Commission Regulation, retrospective surveillance can be introduced without a legal act, when there is no need to create additional specific customs classification codes (10-digit TARIC goods codes).

On this basis, the Commission replaced the prior surveillance system on steel and aluminium, which expired on 15 May 2020, by retrospective surveillance. In addition, in November 2020, the Commission introduced⁶ retrospective Union surveillance on imports of bioethanol for fuel.

The Commission publishes the available surveillance monthly on the ‘surveillance / monitoring of imports’ public page⁷ of DG Trade’s website.

1.2.4 Protecting European small and medium sized enterprises (SMEs)

Given that SMEs face resource constraints in dealing with trade defence, the Commission has always made efforts to facilitate SME awareness of and access to TDI. In 2020, through its dedicated helpdesk, the Commission continued to assist such companies affected by unfair trade practices, both in the EU and in third countries. During their recourse to TDI, SMEs benefitted from less burdensome questionnaires and, where possible, investigation periods aligned with their financial year.

While the Commission continued to help SMEs through its [SME website](#), helpdesk and TDI guide, the European Court of Auditors recommended that the Commission increase awareness of the instruments among industries and SMEs in particular. In 2020, the Commission started work on an information package tailored for SMEs explaining the instruments, how to access them and what is involved in proceedings. The information will be passed through existing channels such as the Market Access Advisory Committee, SME networks in Member States

⁵ Article 11 of Regulation (EU) 2015/478 of 11 March 2015, OJ L86, 27.3.2015, p.16.

⁶ Regulation (EU) 2020/1628, OJ L 366, 04.11.2020, p.12.

⁷ <https://webgate.ec.europa.eu/siglbo/post-surveillance>

as well as through industry associations. In line with the timeframe proposed by the European Court of Auditors, this will be implemented in 2021.

Several manufacturing sectors in the EU characterised by SMEs are successfully using and benefitting from the protection under EU trade defence instruments, for instance bicycles, tyre retreaders, trout and ceramics. Regarding the latter, the AD measures on ceramic tableware and the ex-officio anti-circumvention investigation completed in 2019, demonstrate the Commission's commitment to ensuring the efficacy of measures in force. Being aware of the potential for further circumvention of these measures, the Commission carefully examined fourteen applications from Chinese exporters for new exporting producers treatment received in 2020, to ensure that the applicants are genuine new exporting producers selling their own products and not channelling products of other Chinese tableware producers. The cases were ongoing at the end of 2020.

1.3 Developments in 2020 following the legislative changes in 2017 and 2018

1.3.1 Social and environmental standards

The amendments to the trade defence legislation in December 2017 and June 2018, introduced a number of areas where social and environmental standards should, where possible, be taken into account in AD and AS investigations.

When the Commission applies the new methodology of normal value calculation, it chooses an appropriate representative country to construct a non-distorted normal value of a product. When there is more than one country with suitable available data, the Commission should choose based on the level of social and environmental protection in the countries under consideration.

In the investigations concluded in 2020, the issue did not arise, as suitable data was available for only one representative country in each case.

When establishing the injury margin in investigations, the EU industry's costs of production should include the cost of compliance with multilateral environmental agreements and International Labour Organisation Conventions during the lifetime of TDI measures. As these costs are incurred by Union industry during the period of application of the measure, they can be reflected in the Union industry's target prices/non-injurious prices when calculating the injury margin.

In the investigations concerning *Heavyweight thermal paper* originating in the Republic of Korea and *Certain hot-rolled stainless steel sheets and coils* from Indonesia, the People's Republic of China and Taiwan, the Commission adjusted the target prices after assessing the future costs resulting from Multilateral Environmental Agreements to which the EU is a party. This resulted in the Commission increasing the non-injurious prices by amounts ranging between €6 and €10 per tonne in the thermal paper case and by €1.5 and €6 per tonne in the

steel sheets and coils case. The issue was not raised by interested parties in other cases concluded in 2020.

1.3.2 Report on distortions in the economy of Russia

When the new dumping methodology was introduced in December 2017, the legislation stated that the Commission should produce reports on significant distortions describing the market circumstances in a country or a sector. In this context, the Commission published a report on significant government-induced market distortions in the Russian economy in October 2020⁸.

This is the second such report after the publication of one in December 2017 describing the distortions existing in China. Russia was selected, as the country subject to the highest incidence of AD activity in the EU, after China.

The report is a technical, fact-based document, which draws on a range of sources, in particular Russian legislation and other official public records in Russia. The report is descriptive in nature and divided in three parts. The first is a macro-economic description of the Russian economy, the second discusses the main production factors used in all manufacturing processes (e.g. labour, energy) while the third deals with certain sectors of the Russian economy, namely steel, aluminium and chemicals.

1.3.3 Improved transparency – changes to pre-disclosure period

In the context of the modernisation of TDI in 2018, a ‘pre-disclosure’ obligation was introduced. This obliged the Commission to give interested parties 3 weeks notice of the intention to impose, or not, provisional measures. The Commission reviewed the provision in 2020, as requested by the European Parliament and the Council to examine if pre-disclosure had led to stockpiling and additional injury to the EU industry. The analysis showed that this was not the case and, as a result, the period of pre-disclosure was increased to 4 weeks, in August 2020.

1.4 Judicial review by EU Courts (Annex S)

In 2020, the General Court (GC) and the Court of Justice (CJ) rendered 17 judgments and orders in the TDI area: the GC handed down 12 rulings whereas the CJ rendered 4 preliminary rulings and decided on one appeal.

The jurisprudence in 2020 provides interesting insights into the possible direct effect of WTO law in the area of trade defence. The CJ confirmed the very limited role for WTO appellate body reports, underlining that they are not pertinent where they postdate the adoption of the contested regulation. The GC confirmed the Rusal case law, by finding that the Protocol on the Accession of China to the WTO cannot be relied on to challenge the legality of the contested regulation. The most important judgments are described in the Staff Working Document.

⁸ [Commission Staff Working Document on significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations \(europa.eu\). SWD\(2020\) 242 final](#)

30 new cases were lodged in 2020 in relation to TDI – 23 before the GC and 7 before the CJ, out of which 6 appeals and 1 request for a preliminary ruling.

1.5 Dealing with trade defence activity against the EU

The Commission monitors and intervenes in TDI investigations conducted by third countries targeting EU exports and helps EU exporters develop their defence strategy.

The Commission's main objective is to stop the imposition of unjustified trade defence measures on EU exports and/or to reduce the negative economic impact of any measures imposed e.g. through a reduction of the duty rate or, in SFG cases, a tariff rate quota instead of an ad valorem duty.

The Commission intervenes at a technical level in the form of written submissions to third country investigating authorities and by participating in hearings, as well as at the political level. In 2020, this involved both the Commissioners for Trade and Agriculture raising cases with their counterparts in the third country concerned, either in meetings or through written correspondence. The Commission also raises cases in the relevant World Trade Organisation (WTO) Committees. All interventions are closely coordinated with EU industry and concerned Member States, focussing on cases with a significant economic impact for European industries and systemic implications.

With its actions, the Commission wants to ensure that WTO rules are correctly applied and procedural errors and legal inconsistencies are addressed to counter the abusive use of TDI by third countries. Of major concern is a general lack of transparency and, in many cases, insufficient injury and causal link analysis. Repeated interventions by the Commission, highlighting legal inconsistencies and systemic flaws, have been an important contributing factor in preventing unjustified measures. Some successful interventions in 2020 were:

- The Commission intervened in two safeguard investigations conducted by Ukraine regarding imports of fertilisers, leading to the termination of the investigations without measures. The EU export value before the investigation amounted to €190 million.
- The Commission, together with industry and Member States, also successfully intervened in the AD investigation by the Gulf Cooperation Council regarding imports of ceramic tiles. As a result, Spain with exports valued at over €200 million, was excluded from the scope of the investigation.
- In two safeguard investigations by the Philippines and Malaysia, targeting ceramic tiles, the Commission intervened in both cases. Both countries terminated the investigations without the imposition of measures.

The Commission also intervenes in AS investigations targeting EU aid schemes.

- In January 2020, the US initiated an AD and AS investigation on imports of fluid end blocks from Germany and Italy. The AS investigation was notable in that the US concluded that certain free allowances granted under the European Emission Trading System (ETS) to the European companies exporting the product to the US constituted

a countervailable subsidy. Despite our efforts, this intervention did not lead to a satisfactory outcome.

- A second noteworthy case, which is currently subject to WTO dispute settlement, was the US AS measures on Spanish ripe olives imposed in August 2018. That investigation targeted mainly EU support measures under the Common Agricultural Policy, which are considered not specific, not trade distortive and thus not countervailable. In December 2020, the Chair of the panel informed the Dispute Settlement Body that, due to delays caused by the global COVID-19 pandemic, the panel expected to issue its final report to the parties by the end of June 2021.

At the end of 2020, there were 178 trade defence measures in force affecting EU exports, which is 5 more than 2019 and represents the highest number so far in the Commission's monitoring activity. This level is expected to remain stable, with a high number of new investigations initiated in 2020, 43 compared to 37 in 2019.

The AD instrument remains the most used instrument globally, accounting for 133 of the 178 measures in force. 39 of the measures were SFG (compared to 37 in 2019) and 6 were AS measures.

There were 43 new investigations opened, 22 SFG proceedings (compared to 30 in 2019), 20 were AD and one AS investigation.

The US has the highest number of measures against EU exports, with 38 measures in force (36 in 2019), followed by China with 19, Turkey with 16 and India with 15.

Of the measures in force against the EU in 2020, steel products account for the highest number – 70 out of 178, comprised of 54 AD, 3 AS and 13 SFG. This is followed by chemical products – 48, comprised of 42 AD and 6 SFG. Other sectors frequently targeted are frozen fries, ceramic tiles or paper.

1.6 Activities in the framework of the WTO

Due to COVID-19, the WTO cancelled the April meetings of the Subsidies and Countervailing, Anti-dumping and Safeguards Committees and held virtual meetings in October 2020. The Informal Group on Anti-Circumvention and the Anti-dumping Working Group on Implementation did not meet during 2020.

In the AD Committee, the EU raised a number of third countries' investigations of concern for EU Exporters. These included: 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 context of the Subsidies and Countervailing Measures (SCM) Committee, the EU, USA and Japan co-sponsored an agenda item on the role of subsidies as a contributor to excess capacity in various sectors of economic activity. This is an ongoing exercise to understand the

role which subsidies play in contributing to overcapacities in various sectors. In 2020, discussion focussed on the OECD Report on “Measuring distortions in international markets: The semiconductor value chain” as well as the ongoing work of the Global Forum on Steel Excess capacity. On the latter, the EU, along with other WTO Members, reiterated its call on China to resume its participation in the Forum to tackle the problem of overcapacity in the steel sector.

During the Safeguard Committee meeting, the EU raised a number of concerns regarding the following investigations: Indonesia: Articles of apparel and clothing accessories, Morocco: Welded tubes and pipes of iron or steel, South Africa: Certain flat-rolled steel products, Turkey: Toothbrushes and Ukraine: Polymeric materials as well as wires and cables. The EU also defended its position concerning the safeguard measures on certain steel products, which were subject to criticism from India, China, Russia, Japan, Switzerland and Korea.

In cases where, despite the Commission’s interventions, unjustified TDI measures are imposed, the Commission may resort to WTO dispute settlement, in particular when significant systemic issues have been identified. There are currently two on-going dispute settlement procedures brought by the EU, one concerning the Colombian AD duties on frozen fries from Belgium, Germany and the Netherlands and the other concerning AD and AS duties imposed by the US on imports of Spanish ripe olives.

In January 2020, the EU, US, Japan issued a ministerial statement outlining how the WTO industrial subsidy rules should be strengthened in the future. This initiative is important in the context of strengthening the WTO Agreement on Subsidies and Countervailing measures (ASCM) to deal with evolving subsidy practices among members. The changes proposed relate to transparency, identification of harmful subsidies and definitions on public body for example. The EU continues to engage in the process.

1.7 Activities of the Hearing Officer

In 2020, the Hearing Officer received 24 intervention requests and held 12 hearings. As before, 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 its approach that the interested parties should first address their concerns to the Commission services. The Hearing Officer would then only intervene when a solution was not reached. This approach enabled the interested parties to find a solution directly with the investigation teams in half of the cases

On two occasions, the Hearing Officer extended the deadline for comments. The issues raised at the hearings concerned requests for additional disclosure, anonymity and confidentiality. An EU producer also raised the issue of the impact of COVID-19 related measures on trade defence proceedings. In all cases, an agreement was reached with the services to review the issues at hand, or provide clarifications or additional disclosures.

In 2020, the caseload was similar to 2019. The timing of requests was irregular due to COVID-19 but the logistics for holding hearings was simpler with the elimination of travel.

2 FOCUS ON USE OF SUBSIDIES

2.1 Subsidisation trends

The EU's AS cases initiated in the last ten-year period have seen a marked increase in comparison to the previous ten years, going from 24 to 32 initiations. This is coupled with a dramatic change in the countries primarily concerned by such actions. In the period 2001 to 2010, India, Indonesia and the US accounted for most of the EU's AS initiations, with India traditionally as the front-runner with 10 (over 40%) out of the total 24 initiations. However, in the period 2011 – 2020, China accounted for 14 (44%) out of 32 cases initiated, with India, Indonesia and Turkey accounting for only around 10% of initiations. This number for China, accounting for most AS initiations, is even more telling at WTO level where, in the last 10-year period 55% of AS cases initiated concerned China. This is a reflection of the trade distorting impact of China's widespread and complex system of subsidisation of its industry. In 2020, two of the EU's three AS investigations initiated concerned China and the three definitive AS measures imposed all related to subsidies granted by China – either in the country itself or in Egypt. Therefore, given that most of AS activity in 2020 related to subsidies where China was in fact the origin, the remainder of this section focuses on that country.

2.2 The context of financial support by the PRC

China's government subsidises its companies in a myriad of ways, and the lack of transparency means that understanding them is challenging. In 2006, China introduced the concept of "indigenous innovation"⁹, with the aim to "...raise the indigenous innovation capacities and to consider this as a pivotal means to adjust economic structures, transform the growth model, and improve China's competitiveness". Its combination with China's 'Go Out' policy from 1999, which set out to promote Chinese investments abroad, gives the background to numerous types of China's industry support. The 'Made in China 2025' (MIC2025) strategy¹⁰ and roadmap¹¹ issued in 2015 are an expansion of China's goal on 'indigenous innovation' and cover new and emerging industries as well as traditional manufacturing industries. The Belt and Road Initiative launched in 2013, builds on the 'Go Out' policy of China by developing trade routes and investing in infrastructure and industry projects around the world.

These Government strategies are closely intertwined with a multitude of five-year plans, which determine the direction of the Chinese economy, by setting priorities and goals for central and local governments. The 13th Five Year plan covered the period 2015 – 2020. Financial support to industry is one of the means by which the goals of the five-year plans are met. This was confirmed when the People's Bank of China, together with governmental

⁹ 2006-2020 National Mid- and Long-term Plan on Science and Technology Development Plan, Section I. http://www.gov.cn/jrzq/2006-02/09/content_183787.htm

¹⁰ http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm

¹¹ Made in China Priority Sectors Roadmap, October 2015.

departments, released Several Opinions as to how to ensure a more efficient financial support to growth and structural adjustment (2016)¹² and the Guiding Opinion on Financial Support to Build a Strong Manufacturing Country (2017)¹³. The support can take the form of free or low-cost loans; artificially cheap raw materials, components, energy, and land; tax exemptions and support for R&D and technology acquisitions. These subsidies have contributed to massive excess global capacity in sectors including steel and aluminium. This has led to an increase in unfairly traded exports from China, driving down prices globally and causing injury to many industries in importing countries, including in the EU Member States. The EU's response in 2020, as in previous years, has been to tackle the problem by imposing countervailing measures where justified, including the adoption of a new approach for new problems as outlined in the next section.

2.3 Dealing with cross-country subsidisation under the Anti-subsidy instrument

One of the major initiatives under China's Belt and Road Initiative is creating overseas Economic and Trade Cooperation Zones. The purpose of these zones includes gaining access to raw materials, transferring production (excess) capacities and making use of the benefits of trade agreements signed by the host country with third countries.

Two AS investigations, completed in 2020, were notable in that, for the first time the Commission imposed countervailing duties on such cross-border financial support. In the two cases, the Commission countervailed Chinese subsidies given to Chinese-owned companies manufacturing glass fibre fabrics and continuous filament glass fibre products based in Egypt and exporting from there to the EU. In the glass fibre fabrics case, the Commission also countervailed subsidies granted to exporting producers of the product based in China. In line with changes introduced in 2018 under the modernisation of the trade defence instruments, the lesser duty rule was not applied in these investigations resulting in measures that fully offset the subsidies the exporters received.

The investigations showed that Chinese-owned companies operated from a Special Economic Zone in the territory of Egypt and were provided with subsidies by the governments concerned, benefitting from exports to the EU. These subsidies created additional capacity and opened new channels for export of subsidised products to the EU, causing injury to EU companies producing the same products.

China provided many of the subsidies as part of the Chinese Belt and Road Initiative making the subsidies a factor in fostering local production.

The investigations confirmed the growing practice of state-owned Chinese companies receiving subsidies to export production capacity outside of China to special economic zones.

¹² http://www.gov.cn/xinwen/2016-02/16/content_5041671.htm (People's Bank of China, NDRC, MIIT, MOF, MOFCOM, CBRC, CSRC, CIRC).

¹³ <http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5552432/content.html> (People's Bank of China, MIIT, CBRC, CSRC, CIRC).

This practice was used in Egypt, where exporters proceeded to supply the Union market with dumped and subsidised products duty free, presenting a challenge with regard to the EU-Egypt Association Agreement.

Tackling such cross-country subsidisation shows the Commission's commitment to counter new types of subsidisation which are damaging the EU industry. This response by the Commission in 2020 to China's evolving subsidy practices builds on an earlier case where another Belt and Road Initiative was successfully countervailed. The AS investigation on tyre imports from China, where measures were imposed in 2018, was the first time the Commission countervailed the Silk Road Fund. The investigation found that tyre imports, not only benefitted from the usual range of distorting financing by China, but from a package of support measures by the Government of China (preferential loans/refund on interest paid on loan/equity participation in restructuring exercise/grants). This allowed China National Tire & Rubber Co. Ltd (CNRC) to acquire a 65% stake in Pirelli Group at the end of 2015. Those AS measures are still in place.

2.4 Levelling the playing field as regards foreign subsidies

In June 2020, the Commission issued a “White paper on levelling the playing field as regards foreign subsidies”. While EU State aid controls deal with subsidies granted by EU Member States, and the trade defence instruments tackle the damaging effects of subsidised imports, there remains a regulatory gap. None of the existing instruments address subsidies provided by third countries for the acquisition, or financing, of EU companies and thereby providing them with an unfair competitive advantage against their European competitors. The aim of the Commission's initiative is to create instruments that would protect against foreign-subsidised services and investments. It would close an enforcement gap for foreign subsidies and complement existing instruments. In May 2021, the Commission adopted a proposal for a regulation to tackle foreign subsidies distorting the internal market¹⁴.

3 CONCLUSION

The robust and innovative ways of using the trade defence instruments in 2020 showed the EU's continued commitment to rules based open trade. The Commission adapted to the practical challenges presented by the COVID-19 pandemic to ensure the ‘system for protecting EU businesses from dumped and subsidised imports’ continued to ‘function well’, as stated by European Court of Auditors in its audit report published in mid-2020. By using the countervailing duty instrument to tackle previously unchallenged subsidy practices by third countries, the EU has signalled that it will address new distortive practices harming our industries. Building on that experience, as well as the implementation of the European Court of Auditors' recommendations means that, as we return to ‘normal’ working procedures after the pandemic, the EU remains strong in its ability to tackle unfair trade.

¹⁴ COM(2021) 223 final