

GLOBAL EUROPE

Europe's Trade Defence Instruments in a changing global economy

A Green Paper for public consultation

Questionnaire

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Organisation/individual belonging to the following category	<input checked="" type="checkbox"/> public administration <input type="checkbox"/> Community producers <input type="checkbox"/> Users <input type="checkbox"/> Consumers <input type="checkbox"/> Importers <input type="checkbox"/> Law firm <input type="checkbox"/> University <input type="checkbox"/> Other (please specify)
If organisation, please provide some economic key figures, e.g. turnover and employment and any other figure that you consider relevant.	

Replies to the questionnaire should reach the Commission by **31 March 2007** at: Trade-tdi-green-paper@ec.europa.eu. 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.

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?

A1 The modern global economy means growing interdependence between the economies and business of different countries with increasing global manufacturing and other direct investment in third countries. This is a reality that the EU's Global Europe Communication recognises, and is at the heart of the EU's objectives in the Doha Development Agenda (DDA).

2. For the UK this means the DDA priority is an ambitious outcome that is pro-development and enhances the competitiveness of EU business. A key element of ambitious outcome, reinforcing the continuing growth of the global economy, is open global markets: the reduction and eventual elimination of tariffs and non-tariff barriers to trade by developed and developing countries alike. And, as trade barriers fall, it becomes increasingly important to make sure that they are not re-established in the guise of anti-dumping (AD) and other trade-defence instruments (TDIs). This, together with the interdependence inherent in the global economy, means that, in the long term, TDIs should, with the possible exception of the anti-subsidy instrument, become increasingly irrelevant.

3. However, we recognise that in the short term elimination of TDIs is on neither the EU or wider WTO agenda: this is a position the UK accepts. While open markets will always be in the best interests of all economic interests benefiting the UK - and wider EU - economy and business competitiveness it can be appropriate to use anti-dumping and anti-subsidy (AS) instruments against short term "unfair trade" where it imposes a genuine threat to competition and unwarranted costs against the overall interests of the UK and the EU.

4. Europe already has one of the most progressive global trade defence regimes but that does not remove the obligation to ensure that it operates in the interests of the overall EU economy and its continuing relevance to the 21st century's global economy. The EU has shown leadership in the past, in leading the way, as it is doing in the DDA, at the WTO level to strengthen and improve the rules and in the EU's own regime where it has ensured compatibility with but not been constrained by WTO rules. It should continue to show this same leadership in the future.

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?

A2 These are two very separate questions.

2. First where the Commission believes that subsidy underlies dumping, it should use anti-subsidy (AS) rather than AD actions in order to highlight and attack the root cause of the distortion and to ensure that measures are no higher than it is necessary to address the distortion.

3. The UK also believes that the Commission should be readier to use the AS instrument alone rather than alongside AD actions. There is much greater acceptance and support among Member States of the legitimacy of action against proven unfair trading arising from third country subsidies.

4. The EU has made limited use of AS action to date.

5. The UK recognises that acquiring the evidence to bring AS cases can be a challenge. Nonetheless where subsidies are underpinning dumping, there would be a long-term benefit in securing their termination rather than using and extending anti-dumping action.

6. Greater experience of taking cases builds up expertise and case law which can increase confidence in using this instrument. The Commission has pursued successfully anti-subsidy cases against Korean Dynamic Random Access Memories (DRAMs) and against various Indian products which were covered by a subsidy scheme known as the passbook scheme. Most recently a review of the anti-subsidy measures applicable to Polyethylene Terephthalate originating in India was widely supported, more so than the parallel anti-dumping action.

7. It is worth noting in this respect that over the period 1995 – 2006 the US initiated a similar number of AD cases to the EU, but significantly more (75 compared to 45) AS cases.

8. We would not, however, encourage greater use of the safeguard instrument: the focus for EU trade defence action should be against “unfair trade”. Where safeguard action is used, we believe that the Community interest test should be strengthened as well as the requirement to restructure.

9. On the question’s second point, the Commission should **not**, in our view, initiate trade defence investigations on its own initiative. The Commission must be able to, and be seen to, act as an independent arbiter of the overall EU economic and Community interest in actions. It cannot do this if it is effectively both complainant and judge. It is for the “injured party” representative of a sector as a whole, to judge the need to seek trade defence action.

10. It is however appropriate for the Commission to initiate reviews when it believes that measures in place are no longer justified.

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

A3 It may be possible to take action under EC competition law against specific instances of anti-competitive behaviour such as predatory pricing but only where an undertaking has a dominant position in the EC or where it can be shown that there is an agreement between undertakings which has an effect on trade between Member States. In most anti-dumping decisions the undertakings concerned do not fall into either category.

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?

A4 The Community interest test is a cornerstone of the EU trade defence regime. However it is currently too often operated in a way that gives disproportionate precedence to EU-based producer interests over those of other economic operators.

2. The question correctly implies that EU trade defence actions must take into account the reality of the global economy and the interests of EU businesses that have manufacturing operations overseas but which retain significant operations and employment, including in many cases manufacturing operations in the EU. Such companies make a very substantial contribution to the EU economy through both their EU and overseas operations. This was highlighted recently in the anti-dumping action taken against imports of footwear originating in China and Vietnam. The same is true of importers/traders that provide an essential service in supplying competitively priced inputs that contribute to the competitiveness of EU industry and of retailers who ensure choice and competition in the high street. Many of the companies involved in the recent footwear case were both manufacturers and importers who had research and development, design, marketing and other significant employment generating activities in the EU.

3. In a system in which the complainant has to assemble a *prima facie* case before the Commission will accept an application, and where the onus has been on other interests to provide counter information, it is inevitable that interests other than those of the complainant producer are at an undue disadvantage, in terms of the opportunity to make their cases and the investigation timescales. In our view, a more balanced recognition of the interests of other economic operators, apart from producers, including importers, retailers and final consumers, could be addressed by setting out general principles governing the application of Article 21 on the Community interest test and through rigorous assessment criteria to be addressed by the Commission in its investigation. The Commission should:

- increase transparency i.e. early notification of requested investigations, public availability of the (non-confidential) grounds for the complaint;
- be obliged to actively identify and analyse all non EU-based producer interests;
- assess the aggregate costs and benefits to all of the interests affected by a case;
- analyse structural developments in EU industry sectors in response to globalisation,

including the fact that many EU companies may have outsourced production, and assess the impact of any anti-dumping measures on any such production.

- give particular attention to the longer term effects of measures in cases where there is a genuine threat to competition from pricing which is either predatory in nature and effect, or which is underpinned by verified state subsidisation.

4. In the salmon case, for example, the UK and Ireland recognised that there were legitimate non-producer interests, for example EU processors and consumers. This recognition was reflected in our willingness to accept a Minimum Import Price (MIP) solution rather than the more normal additional antidumping duty that would have applied to all imports irrespective of the market price

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?

A5 The interests of consumers (whether industrial users or consumers in the high street) should be identified and analysed as described in the response to Q4.

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?

A6 Trade defence investigations should consider and report on the implications for other relevant EU policies. Coherence is clearly desirable. However, international agreements rather than trade defence regimes are the appropriate structures for policing wider concerns such as labour, environmental and other standards and issues. It would, however, be useful for the Commission to review whether, in practice, antidumping measures discriminate against developing countries, especially where labour-intensive products are at issue, and the implications this has for the Community's development objectives.

2. The UK believes that the EU should not take trade defence action (other than in cases of circumvention) against least developed countries, provided that their exports to the EU account for no more than 5% of total EU imports of the product under consideration. While we believe this is a principle that should also be adopted at the WTO level, EU action should not be dependent on multilateral agreement.

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

A7 There should be an objective attempt to assess the impact on Gross Domestic Product (GDP) of measures. This should weigh all interests equally and look at the aggregate costs and benefits. This might be informed by appropriate economic models.

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?

A8 Experience has shown that there is a case for providing flexibility in proposing measures to be able to respond to particular Community Interest considerations by either downward adjustment of measures or exclusion of certain product types or categories on grounds of, for example, particular user/consumer interests or absence of EU suppliers. Some downward adjustment should also be allowed to reflect the impact of factors other than dumping which have caused injury, for example, currency changes and increases in non-dumped imports

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?

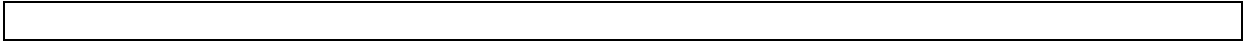
A9 The UK believes that the Commission should be able to take into account considerations, including potential community interest considerations, beyond the information which complainants are required to submit when deciding whether or not to initiate an AD or AS investigation. Such an 'in-house' consideration could be undertaken without publicising applications before a decision to initiate an investigation is taken.

In general, an early initial identification of community interest considerations would be welcome and may prevent unnecessary investigation initiations.

The same arguments are relevant to applying the Community Interest test prior to the initiation of expiry reviews.

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?

A10 The Commission has used industry viability as a reason to terminate two recent cases involving CDs and DVDs on the grounds that production of these products in the EU was not viable. The UK supported these decisions. In so far as viability relates to an industry's competitiveness, this should generally be assessed and reported on as part of the injury and/or the causation analysis.



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

A11 The EU should consult with third countries after receiving complaints, to ensure that they understand fully the EU process and are well placed to advise their exporters, including on the consequences of not cooperating with investigations. As a general principle greater transparency is to the benefit of all interested, particular in the early stages of a possible investigation. Such contact may help to identify a solution without resort to anti-dumping measures

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?

A12 UK believes that the Anti-Subsidy instrument should, where this is justified, be used in preference to the Anti-Dumping instrument in all cases. This is because anti-subsidy targets more precisely the root cause of trade distortion than anti-dumping. This is even more important in cases involving economies in transition, where in anti-dumping cases, the “normal value” is established in relation to an often unsatisfactory analogue country with the result that the margin of dumping can be inflated.

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?

A13 The UK would support a review with the aim of raising the threshold of the “standing”. Currently more than 10% of cases are based on support from industry accounting for less than a third of total Community production. Cases with low levels of support include those involving recordable CDs and plastic bags.

2. We would also support a review of the criteria used to determine whether particular producers should be included or excluded from the definition of Community production. It is not clear whether it is appropriate in every case to exclude all related production located in the EU, irrespective of ownership. A review might, for example, explore whether enterprises on EU territory who are related to the target of AD action might have their production taken into account if they are operated independently.

3. We also believe that the definition of Community production should take proper account of the realities of competition in the market place.

Q14 Should the EU change the “de minimis” thresholds (in percentage and absolute terms) that currently apply to dumping and injury in trade defence investigations?

A14 UK strongly supports the raising of the “*de minimis*” dumping threshold to reduce the burden on the companies subject to the duties and to reduce the administrative burden on customs authorities. Small dumping margins or market shares are unlikely to threaten competition.

2. The threshold for applying anti-dumping measures in terms of the percentage of the market share constituted by imports of the product concerned could be raised. This would align it with the percentage used in safeguard investigations to exempt developing countries from safeguard action. The rationale would be similar: it is likely that developing countries would be in the majority among third countries with small market shares of a dumped product. It would assist developmental objectives to show greater “flexibility” with developing countries.

3. Any raising of the thresholds should not be circumvented by the operation of the rules on “cumulation”. The UK would prefer not to allow for the possibility of cumulation and to have separate assessments made of the alleged dumping effects for each country involved in an anti-dumping investigation. The current provision in the basic Anti-Dumping Regulation permits several countries whose dumping margin is just above the *de minimis* level to be cumulated and for an average level of anti-dumping duty to be applied to imports. This can discriminate against certain countries.

4. If a cumulative assessment of the effect of imports is to be carried out it should only be considered where imported products are in direct competition with both other imported products and the like EU product.

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?

A15 Currently the average costs of start-up operations at the end of the start-up phase are applied in the calculation of the normal value. Operations in the start-up phase are more expensive because of low utilisation of equipment and high investment costs, so that if these costs were to be reflected in the calculation of the normal value, they would inflate the dumping margin and any resultant anti-dumping duties. The length of the start-up phase and therefore the point at which the costs of an enterprise become relevant to the calculation of the “normal value” is limited to part of the period for cost recovery. UK would argue that until all start-up costs are recovered, there should not be a calculation of costs. Therefore we would wish the “grace period” to extend to the point where an enterprise no longer needs to recover start-up costs, as this would reflect a truer picture of the enterprise concerned.

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?

A16 The rules governing the selection of an analogue country to determine the "normal value" should be made more rigorous. In particular the rules should state that the market economy country chosen as the analogue country must operate under similar economic conditions as the non-market economy. The discretion of the investigating authority to select a vastly disparate country should be removed. Where in the appropriately selected country, there is a lack of cooperation from producers, the Commission should base itself on a constructed value based on "best facts available". This would make what is an artificial comparison of costs as fair as possible.

2. The concept of "ordinary course of trade" needs to be defined in greater detail and not merely be restricted to a prohibition on taking into account sales between related parties unless they operate at arms length.

3. The current method of calculation requires only that a causal link be established between dumped imports and the injury suffered by the Community industry. The injury elimination margin is then calculated on the basis of what it would take to raise the price of the dumped imports to a level with which the Community industry can earn a "normal" level of profit. This procedure makes no distinction between the injury caused by the dumped imports and injury due to other factors e.g. the effect of imports from other third countries, currency fluctuations, fluctuations in prices of raw materials etc UK would suggest that the injury analysis should apportion the injury to all relevant factors, not just dumped imports. Then the true effect of dumped imports could be properly assessed and the injury elimination margin set at a level that only counteracts the effect of the dumped imports. This should ensure a more appropriate and equitable level of anti-dumping duty.

4. In addition, the practice of "zeroing" should be explicitly prohibited. In calculating the weighted average dumping margin, any "negative" dumping margins (i.e. where a company is not dumping) should be offset against positive dumping margins so that a true weighted average dumping margin can be established. The practice of "zeroing" means that in effect negative dumping margins are disregarded and the weighted average dumping margin is artificially inflated.

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?

A 17 The UK would like to see an acceleration of the newcomer review process. Under the basic Anti-Dumping and Anti-Subsidy Regulations, new exporters may only seek a "new exporter" or "accelerated" review if they had not been exporting during the original Investigation Period (IP). There is therefore no provision for exporters who commence exporting during the fifteen-month anti-dumping investigation period or during the thirteen month anti-subsidy investigation period. These would have to wait until the end of the investigation period and then apply for a review.

2. UK would support a provision permitting new exporters to apply for a review while the original investigation is taking place. Such a provision might state that provided the exporter was not exporting on the date of the initiation of a trade defence investigation, that exporter should be entitled to apply, and subject to fulfilling the necessary conditions, obtain a new exporter review even when that review is running in parallel to the main investigation.

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?

A18 The Anti-Dumping and Anti-Subsidy instruments are designed to tackle allegedly unfair trade and in such cases an obligation to restructure an EU industry is arguably inappropriate.

2. However, consideration of restructuring trends within a sector is appropriate in considering the Community Interest, for example interests of those companies who have responded to commercial pressures by globalising their operations and the competitiveness of a sector overall. Companies and their workers who have responded positively to the development of the global economy should not be penalised for being forward looking.

3. In addition, as part of any review the Commission should undertake and publish an assessment of the competitive position of the affected industry and any steps that it has taken to improve its global competitiveness.

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

A19 The main obstacles to the participation of SMEs in trade defence investigations are lack of awareness of ongoing investigations and, when they are aware, lack of time, expertise and financial resources to get their representations heard.

2. These issues might be addressed by:

an obligation in the basic Anti-Dumping and Anti-Subsidy Regulations to require the Commission to seek proactively the views of SMEs or at least to explain what the Commission has done to seek their views;

questionnaires seeking SMEs views should be simplified, standardised and their total length reduced and made available in the language of the country where the SME is based; the time available for completion should be lengthened to 60 days; the Commission should offer oral hearings to a representative sample of SMEs; and a simpler and more SME-friendly communication, including the DG Trade website.

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?

A20 A balance has to be struck between taking timely action when unfair trade is injuring EU industry and the need to maintain the quality and thoroughness of Commission investigations and transparency and opportunity to comment of all interested parties. The UK view is that the balance of interest is against shortening the deadlines for the imposition of provisional measures. In addition to transparency issues and equality of opportunity considerations, a shorter deadline would also reduce the time available to importers to look for alternative sources of supply.

While generally flexibility is desirable this has to be weighed against increased uncertainty for business in all but for exceptional cases.

Rather than altering the deadline for the imposition of provisional measures, the UK would like to see the overall duration of anti-dumping and anti-subsidy investigations reduced to twelve months.

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

A21 UK believes there should be some degree of flexibility available to ensure that when measures are judged to be justified they are proportionate and appropriate taking into account the overall EU Community Interests. Any flexibility should have an economic rationale and not be linked to political pressure for flexibility in particular cases.

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?

A22 There is a need for a "shipping clause" in anti-dumping and anti-subsidy regulations to allow for the commercial reality that orders for goods can be placed six months and more in advance. Thus anti-dumping and anti-subsidy should apply only to products shipped on the day of their entry into force and thereafter and not, as it is the current practice, to goods landed on the day of entry in to force and thereafter.

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?

A23 UK would support flexibility allowing shorter periods for the duration of definitive AD/As measures. Shorter terms for measures may be appropriate in a range of circumstances, for example:

- where there are indications that circumstances have changed/are changing since the Investigation Period;
- in fast moving, consumer driven markets;
- where the Community Interest is finely balanced; or where there is an unusual level of uncertainty concerning key aspects of the case.

An alternative would be to reduce the expiry for all measures to four years from their imposition or from the date of conclusion of the most recent review.

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?

A24 Re-imburement of duties paid during the currency of an expiry review when it is decided not to continue with anti-dumping measures should be automatic.

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?

A25 Yes. All reviews should take place within the original term of measures. Additional periods should not be imposed without confirmation, following investigation, of their need: the five year norm for anti-dumping measures automatically becomes at least six years if an expiry review is implemented

2. Such an arrangement would also mean that there would be no issue of re-imburement (see Q24).

3. In addition, in our view the time allowed for the completion of expiry, interim, new-exporter and anti-circumvention reviews should all be standardised at 12 months.

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"?

A26 UK believes that the current threshold for the re-imposition of measures following expiry reviews leaves too much room for speculation. It also requires the Commission to make predictions about the evolution of the market which may prove unfounded. Rather an assessment should be made of the state of the market and whether there is a "verified threat of injury". The standards of evidence relating to the likelihood of recurrence of dumping should be strengthened. For example, the existence of unused spare capacity in exporting countries subject to expiry reviews should not, in itself, be taken as evidence that the countries concerned would dump in the absence of anti-dumping measures. Updated Community Interest considerations should also be taken into account.

2. Consideration should be given to limiting the number of times an anti-dumping measure may be subject to an expiry review. Under the current arrangements, there is no limit and anti-dumping measures can be extended indefinitely

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?

A27 We believe that the functions of this post must evolve over time in a way that responds to the interests and concerns of all parties involved in trade defence investigations. The UK supports what we understand to be the initial functions of the Hearing Officer. That is that the hearing officer should have an overview of all the representations made in a particular trade defence case and should ultimately be responsible for balancing the interests of the complainants and those of the user industry/consumers. The officer should have the task of conducting the Community interest test but should not be involved in the dumping or injury analysis side.

2. This would include involving the hearing officer in being:

- the individual to whom representations about a particular trade defence case would be sent;
- responsible for organising dates and times for interested parties to be heard;
- responsible for analysing the various representations received;
- particularly responsible for ensuring the appropriate application of the Community Interest test.

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

A28 UK supports greater transparency in all processes. All interested parties must have equal opportunity to comment.

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?

A29 Recognising the considerable information that the Commission already makes available on its website, the UK is in favour of greater openness and transparency and would support the publication of:

- meeting agendas;
- a list of MS contacts (these are already widely known); and
- information on decisions taken and voting without revealing the arguments deployed by Member States in support of positions taken.

2. It would also be helpful for documents to be released sufficiently in advance of meetings or deadlines for taking positions to enable the parties concerned to have a dialogue with Member States' representatives and raise issues of concern. The current 10-working-day deadline should be extended to 15 working days.

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?

A30 UK would support both of these steps as a further contribution to transparency. Access to non-confidential information via the internet would also reduce the number of telephone calls received by national delegations. The Commission should also publish a quarterly list of all documents whose contents it has published. It should also publish a list as an annex to its annual antidumping report.

2. In our view the Commission should be required to publish a non-confidential version of the complaint document and thereby allow other interested parties an early opportunity to challenge allegations of dumping and the supporting data for these.

3. Non-confidential versions of working documents should be published. They should contain sufficient data to enable interested parties to make informed judgments about how the Commission has worked out the dumping and injury margins. An analysis of the viability of the industry affected by the alleged dumping should also be included.

4. Linked to this there should be a definition of what constitutes "commercially sensitive" data so that everyone understands the kind of information that is being withheld from disclosure and other documents and parties can challenge the non-inclusion of information

that might enable them to defend their interests.

5. We also believe it would be helpful to for the Commission should publicise details of complaints rejected and the reasons for their rejection.

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?

A31 The UK does not believe that any changes to the institutional arrangements are needed. The current checks and balances between the Commission and MS, though criticised in individual cases, is about right taken overall. It is also right that the ultimate decision makers should be the Member States meeting in Council.

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

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