

## **Anti-dumping investigation on Chinese and Vietnamese Footwear: questions and answers – Brussels, 23 February 2006**

### **What is anti-dumping?**

#### **What is dumping?**

Dumping is the sale of a product for export at less than its normal value (i.e.: profitable domestic sales prices or cost of manufacture plus a small allowance for selling, general and administrative costs and profit margin) in the market where it is produced. Dumping can happen for a range of reasons:

- It can be maintained as a short-term predatory pricing strategy by exporters designed to put competitors in an export market out of business.
- It can be the result of market intervention or state subsidy of a company's production that enables it to artificially lower the cost of export.

Predatory pricing of this kind is illegal under WTO rules if it harms producers in the export market. Of course, dumping also harms exporters in third countries, who are unable to compete with artificially cheap exports from the dumping country.

States are entitled to use WTO anti-dumping rules to ensure that predatory pricing does not unfairly harm their domestic producers. Proportionate to the size of its economy, the European Union is a very moderate user of anti-dumping measures, initiating less cases, and imposing less measures, than most other major economies including the US, India. China is also a big user of anti-dumping measures.

#### **How is an anti-dumping investigation launched?**

The European Commission undertakes investigations into complaints of dumping filed by European industry. To initiate an investigation, a credible complaint has to be received from producers representing 25% or more of European production of the product in question. Investigations last between 12 and 15 months. EU investigators collect economic and commercial data through questionnaires and on-site investigations.

A dumping investigation investigates three things: 1) if dumping is taking place; 2) if injury is being caused to European producers competing against dumped imports and 3) if acting to remove that injury is in wider European economic interests.

#### **How do you know if dumping is taking place?**

It is only possible to categorically identify dumping by undertaking a detailed analysis of the conditions in which exports are produced.

Reducing market share for European producers is not, in itself, evidence of dumping. European companies face tough competition from exports and in some sectors this competition has reduced EU producer's share of the EU domestic markets. Some EU producers have relocated production outside of Europe and their share of the EU market now appears as imports rather than domestic production. So reduction in market share alone is not evidence of dumping.

Rising imports are not, in themselves, evidence of dumping. Competitive exporters are consistently seeking to raise their exports to Europe. Imports of both textiles and shoes to the

European Union from China have surged since 1 January 2005 when quotas on these imports were lifted and importers were able to place new orders with highly competitive producers there. Although this shift in production and the fall in unit prices that such new economies of scale for exporters can bring can be unnerving for European producers they do not necessarily represent unfair trade, and they alone are not evidence of dumping.

The clearest *prima facie* evidence of dumping is usually a drop in export unit prices for the product in question sold to the Community when compared to equivalent costs elsewhere - although this can be simply the result of technological innovation or industry rationalisation. A drop in export unit prices of this kind will often produce a rise in export/import volumes as importers move to the cheapest producer in the market - which is why dumping is usually associated with rising import volumes. So a fall in unit prices for exports are not in itself evidence of dumping.

Only an investigation of the conditions of production of an exported product can produce unequivocal evidence that it is being exported below normal value.

### **Are anti-dumping measures 'protectionism'?**

No. Acting to limit the damaging effects of dumping is not protectionism – dumping is contrary to any understanding of what constitutes fair trade. Anti-dumping measures use a tariff to raise the price of illegally under-priced imports to better reflect their actual value.

The 'lesser duty' rule used in Europe (but not, for example, in the United States) means that our measures either:

- close the margin of dumping, which is the difference between the export price of the dumped product and its true value **or**;
- close the margin of injury, which is the difference between the export price of the dumped item and the sales price for the equivalent EU product, **whichever is less**.

This means that an anti-dumping duty can still leave an imported product cheaper than the equivalent EU product, and it ensures that anti-dumping measures cannot be used to make imports more expensive than the equivalent EU product.

Anti-dumping measures counter the effect of illegal under-pricing through state subsidy or predatory commercial practice; **they do not shield European producers from tough but legitimate competition**. Anti-dumping measures do not take the form of quantitative restrictions or import quotas, there is no ban on the goods in question and **no limit to their export to Europe**.

Anti-dumping measures will not save uncompetitive European producers – but they will create a market in which comparative advantage is exercised fairly.

### **But don't consumers benefit from cheap imports – however they are produced?**

This is in many cases true – although if aggressive pricing eliminates meaningful competition and prices are then raised again the benefits can be short-lived. European rules on anti-dumping require that the Commission must weight the potential costs to consumers, importers and retailers in acting to address dumping. If the costs imposed elsewhere in the European economy by raising the price of under-priced imports are greater than the loss to the European economy through unfair pricing, the Commission has the option of not acting.

It is worth noting that we do not usually regard consumers as being entitled to enjoy cheap goods by any means – for example, most people think cheaper goods do not justify tolerance of abusive labour standards or damagingly weak environmental standards. Dumping is illegal in international trade law and is often based on state intervention in free and fair competition. The extent to which we are willing to tolerate it is a decision that needs to be weighed very carefully indeed.

**Don't developing countries like China and Vietnam have a right to use state intervention to build up infant industries to enable them to compete on the world market?**

Developing countries do need to be given room to nurture infant industry. This is a principle that the European Union has put at the heart of its negotiating position in the Doha Round of WTO negotiations. However, the Chinese and Vietnamese footwear industries are now massive, highly competitive industries with global reach. Moreover, they are entirely capable of retaining their extraordinary competitiveness without exporting at dumped prices.

**The Anti-dumping investigation on Chinese and Vietnamese leather footwear**

**How did you select the representative sample of Chinese and Vietnamese companies for the investigation?**

The rules for carrying out an anti-dumping investigation are set out in the 1994 WTO Anti-Dumping Agreement. These rules are transposed into EU law.

It is of course not possible to investigate all companies subject to a complaint related to an economy the size of China. WTO rules require that in these circumstances the investigation treat a "statistically valid" sample of companies. The companies investigated in China by the European Commission represent approximately 15% of the Chinese footwear production sector.

- Most of the companies investigated in the sample were nominated by the Chinese and Vietnamese governments for the purpose of the investigation.
- EU investigators worked closely with Chinese and Vietnamese governments and travelled to both countries to offer technical assistance before the actual investigation started – highly unusual in an anti-dumping investigation.

**You denied Market Economy Status (MES) to all of the companies in both the Chinese and Vietnamese sample – why?**

Although the companies were designated by the Chinese and Vietnamese governments as model producers the Commission was not able to confirm that any of the companies sampled were operating in market economy conditions. In all cases there was clear evidence of state intervention or non-standard accounting practice. It is clear that these conditions have obtained in China and Vietnam for some time.

These conditions included:

- Non-commercial loans or capital grants from the state;
- Restrictions on selling on the Chinese domestic market – for example, production licenses granted only for the manufacture of products for export;
- Non-enforcement of international accounting standards;

- Improper evaluation of assets;
- Non-commercial conditions for land-use: it is not possible to own land in China, but EU investigators found clear evidence of factories being provided with land by the state rent-free;
- Other forms of state intervention: all the Chinese and Vietnamese companies were not able to show that “in fact and in law” they are free from unfair state intervention.

It has been suggested that the non-granting of MES makes a finding of dumping inevitable. This is not true. The decision means only that a third and analogous country, is used to determine sales and cost data that cannot reliably be determined in the country under investigation itself. It does not in any way imply that a finding of dumping is inevitable.

### **How does the ‘analogue country’ procedure work?**

The rules for the analogue country procedure are set out in the 1994 WTO Anti-dumping Agreement. An investigation that is not able to gather credible data from a non-market economy is required to use a country in which the general capacity of production closely approximates that of the investigated country. The intention is to allow investigators to model the costs of production in the exporter country **as if that country operated on market economy conditions**.

Most importantly, the intention is **not** to choose a country that recreates the conditions of production in the investigated country **because by definition those conditions are not known, or have been distorted by the fact that market economy conditions do not operate**. The analogue country allows investigators to model what those costs might be if market economy conditions prevailed.

In this investigation Brazil has been used because its footwear sector, production range and export capacity is of analogous size to that of China and Vietnam.

Where we are able to determine undistorted costs in China and Vietnam the European Commission has adjusted its analogue model accordingly.

For example: Brazilian shoemakers use leather of much lower quality than Chinese producers who produce for export to Europe. Because Chinese producers import the great majority of this leather (often from Europe) it is possible to accurately assess its part in production costs.

### **You excluded Special Technology Advanced Footwear (STAF) leather shoes and children’s shoes from the investigation – why?**

STAF leather shoes are leather sports shoes with high-technology moulded or shock-absorbing soles. They were excluded from the investigation because they are not produced in Europe in sufficient quantity to qualify as potentially harmed by dumping. Young children need three to four pairs of new shoes a year. The burden of a duty is potentially greater on children shoes because the price is lower. Moreover, parents should not see hurdles put in the way to them buying good quality shoes for their children. Although the Commission believes measures will not lead to significant price rises for consumers it will not recommend imposing these costs on families with children at this stage.

### Did the European Commission investigation find dumping?

Yes. As a result of the state intervention in leather footwear production in China and Vietnam European Commission investigators have shown that leather footwear is being dumped on the European market. The investigations suggest that Chinese leather footwear is being sold in Europe at about 80% of its normal value, and Vietnamese shoes are being sold at about 50% of their normal value.

### Can you show that dumping of Chinese and Vietnamese leather footwear is causing serious injury to EU producers?

Yes. EU production of leather footwear has fallen by 30% since 2001, accompanied by a steady fall in import prices and a tripling in imports for leather shoes from China and Vietnam over the same period. Before 2001 European leather footwear production was falling at about 13% a year. Profit margins in the European footwear industry since 2001 have fluctuated between 0-2%, and this figure represents the successful companies: more than 40000 jobs have been lost in the EU footwear sector since 2001 and more than 1000 footwear companies have closed.



**Macro trends in leather footwear import prices 2001-2005 (2001=100)**

European Commission investigators now have evidence that Chinese and Vietnamese exporters have been dumping leather footwear on the European market for this period. Until 2005 imports were restricted by quotas which made competition with dumped products possible, despite a serious fall in production, reinvestment, employment and a rise in foreclosure. With the ending of the quota system there is clear evidence that European producers have suffered serious injury from illegally under-priced imports.

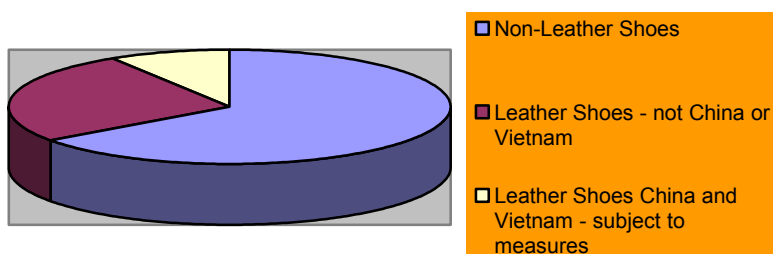
This is **not** to argue that the competitive pressure on EU producers of footwear is related solely to dumped goods. EU leather footwear production is adapting to changes in global production and competition. But there is clear evidence that illegally under-priced exports from China and Vietnam have exacerbated these intense competitive pressures.

### Have you assessed the wider impact of measures on the European economy?

Yes; the Commission is legally bound to do so. Because a duty on imports can raise costs 'downstream' for importers, retailers and consumers to Commission is required to ensure that measures are proportionate and reflect the wider European interest. In this case, on balance, the evidence suggests that limited action is in the European economic interest.

## What would the impact of measures be on importers and consumers?

The average import price for footwear subject to this investigation is about 8.5 euros. The average retail price is about 35 euros, although shoes in this category can retail for much more. At the average retail price an anti-dumping duty represents about 7% of the average sale price. If the burden of the duty is equally shared by all intermediaries in the supply chain, the cost of a pair of 35 euro shoes would rise by less than a euro.



### EU footwear market

For every 100 pairs of shoes bought by Europeans, 35 are leather footwear. About nine in every hundred pairs will be subject to measures. The element of the duty that is passed on through the supply chain to retailers can be offset against products not subject to anti-dumping measures or other costs. Again, anything but the smallest rises in prices for consumers is unlikely.

Since 2001 average import prices for the kinds of shoes subject to this investigation have fallen by about 28%, but consumer prices have stayed stable or actually risen slightly. This suggests that retailers have some margin to absorb the additional cost of an anti-dumping duty.

### Chinese textiles and now Chinese shoes?

This is an entirely misleading comparison. The textile issue concerned fairly traded textile imports, albeit subject to a dramatic and sudden increase in volume following the lifting of quotas on Chinese textiles on 1 January 2005. The European Union addressed the problem with the Chinese through a mutually agreed transition period of quantitative restrictions that provided a short adjustment period for European producers and annually-increasing quotas for exports from China leading to full liberalisation in 2008. The European Commission never suggested that Chinese textile exports were unfair or traded illegally. It acted with the Chinese to cushion the impact of a massive shift in global trading patterns in textiles.

In the case of footwear, the allegation is that goods are being traded in a way that is both unfair and illegal under World Trade Organization rules. The European Commission has a legal obligation to investigate such a claim and a legal right to protect European producers against such practice.