

# **Research project on the impact of Anti-Dumping investigations on UK business.**

## **Final Report**

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All views expressed are those of the survey participants and the consultant and do not necessarily reflect the views of the Department for Business, Innovation and Skills

Cliff Stevenson Consulting  
[www.cliffstevensonconsulting.com](http://www.cliffstevensonconsulting.com)

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## Executive Summary

- The study asks UK companies what their experience has been in relation to the impact of AD investigations and the procedural aspects of the cases.

### Methodology

- Research was primarily by telephone discussion. 30 people participated, representing all major interests, 23 by telephone (average call length 31 minutes) and 7 by email. The respondents had been involved in 11 different anti-dumping investigations.

### Survey results

- Hearing about the case - The majority of companies hear about anti-dumping investigations from the market, especially for SMEs.
- Level of understanding - Most participants had no previous involvement or understanding of AD issues when they became involved in an investigation. Survey participants were satisfied with the information available from BIS.
- Timing - The majority of survey participants got involved in the investigation at initiation. However, for SMEs, more than half did not get involved until provisional duties.
- Legal Advisers - Some companies used legal advisers, but typically not SMEs.
- Coordination - Coordinating defence coalitions worked well between larger users but others had found forming coalitions difficult.
- Contact with BIS and Commission - All companies had contact with BIS and around two thirds had contact with the European Commission.
- Impact of the investigation (survey participants)
  - Cost - The vast majority of companies had a time input on investigation of up to 30 days. A majority of SMEs had time input of 15 days or less.
  - For a majority of survey participants the cost of the time input was less than 0.1% of turnover. Only 1 company was above 0.5% (0.7%) and no-one was above 1%.
  - Travel costs were not significant.
  - Legal fees were not incurred by all participants. For those that gave information the cost varied between 0.003% and 0.333% of turnover.
  - The maximum time input was 0.7% of turnover and the maximum legal cost was 0.3% of turnover. Although these figures appear modest, they may still be very significant for companies operating on small margins.

- Impact on business - Around one third of survey participants identified that there had been a decrease in imports from the country concerned (and in some cases an overall reduction) as a result of AD measures being imposed. However, two thirds reported that there was a lack of impact i.e. same or even increased imports.
- Importing businesses appear to adapt to the 'pain' of anti-dumping duties.
- Participants perceived that there were benefits to early awareness and strong users/importer intervention.
- There was little or no perceived impact of the initiation of an investigation on imports.
- The main impact of AD duties was a) reduced cashflow as a result of stockpiling to legitimately avoid measures b) increased cost of imports and decreased profitability.
- Impact of AD investigations based on Eurostat data
  - In most cases the data confirmed what survey participants had said, though in a small number of cases it did conflict.
  - The Eurostat data confirms that there does not seem to be any discernible effect of the initiation of an investigation.
  - The data from Eurostat suggests that the introduction of provisional anti-dumping duties does have an impact on import volumes.
- Transparency/Communication
  - Views on transparency were influenced by the particular interest of the participant and outcome of the case.
  - BIS was generally complimented on its transparency and provision of information, though some felt that BIS does not support manufacturing and that it listens only to importers/retail.
  - There was a mixed response for the Commission on transparency, though the greatest criticism was made by those for whom the outcome was not what they wanted.
- Outcome
  - Survey participants were satisfied if they had a good outcome and vice versa.
  - Concerns were raised about outcomes influenced by political pressures.
- Trade Associations
  - Most company participants in the survey are trade association members but it was found that trade associations are less able to take a clear position on behalf of their members in AD investigations.

- Trade media
  - Trade press only covers anti-dumping in a minimal way.
- Other suggestions in response to an open question were varied including a) BIS should be proactive on issues affecting global companies in AD investigation b) Review feedback given out by HMG on UK position c) importance of building up industry knowledge d) HMRC's role in dealing with AD queries.
- On broader EU level issues, various suggestions were made including a) simpler user/importer questions b) review of voting system to make it less political c) Commission proactivity in identifying and contacting users d) consideration of companies producing downstream products e) Commission should make finding even when complaint withdrawn f) types of duty g) level of Commission discretion h) ex post assessment of anti-dumping.

## **Proposals**

- Improving awareness
  - Review AD information on UK Government websites.
  - Include more practical information on the BIS website.
  - Review of search engine optimisation (SEO) for BIS AD page.
  - Create a dedicated email notification service for anti-dumping.
  - Possible AD information initiative with trade associations.
- Improving understanding
  - Create a basic checklist of relevant issues on BIS website, perhaps tailored to different interests.
  - Stress the benefits of early participation.
  - Outline the benefits of coalitions/coordination for users/importers.
  - Include information about the timing of possible application of duties.
  - Provide guidance on political channels in various stages of AD process.
  - Outline when a company might be in contact with the Commission.
- Improving transparency & communication
  - Identifying UK interested parties - conduct detailed web searches at the start of an investigation.
  - Contact relevant journals on initiation of an investigation and encourage them to write a piece on it.
  - Reflect on the message BIS gives to those in favour of measures when HMG opposes AD duties.

- Vigilance in giving realistic assessments and explaining the UK position while always keeping efforts to present an open mind.
  - Better publicise the UK attitude towards anti-dumping.
  - Review consistency of feedback given on UK voting position.
  - Make efforts to be briefed on specific industry issues.
  - Review HMRC role in dealing with anti-dumping queries.
- Broader/Commission issues
    - Review the terminology used for 'users' in AD investigations.
    - Review the role and usefulness of abstentions and whether the voting system could be made less political.
    - Consideration of AD issues arising out of globalisation.
    - Question whether the Commission do enough to identify potential interested parties.
    - Review whether the Commission takes enough initiative in identifying downstream issues.
    - Review reasons why the Commission does not always make a finding when a complaint is withdrawn.
    - Review whether more ex post assessment of ADD and their effectiveness could be conducted.

# 1. Terms of Reference

- On 28 October 2011 the European Commission announced the launch of a modernisation review of EU Trade Defence Instruments (TDI). One particular issue on which there is little or no published research is the level of administrative and other cost burdens imposed by a Commission TDI investigation and the impact of uncertainty on business caused by the conduct of that investigation.
- This study therefore researches the impact of anti-dumping investigations on UK business. Much previous research on anti-dumping has focused on the impact of measures. But an investigation lasts up to 15 months and might have an impact independent of the measures. Anecdotal evidence has suggested that companies are affected by the administrative costs of investigations and uncertainty. Importers might switch supply sources even before measures are applied as an insurance policy. Alternatively, importers may stockpile products in advance of the imposition of measures, negatively affecting cashflow.
- Previous econometric evidence has suggested a distinct effect of anti-dumping investigations<sup>1</sup>.
- The aim of this study, therefore, is to ask UK companies what their experience has been in relation to the effect of anti-dumping investigations and the procedural aspects of the cases e.g. transparency.
- The terms of reference of the project are as follows:

*“Through appropriate and cost-effective survey methods, provide an assessment of:*

- *the nature of typical administrative burdens of the procedural aspects of TDI cases on UK businesses involved in those cases;*
- *the transparency, objectivity and inclusiveness of the investigation and decision-making process from the perspective of industry;*

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<sup>1</sup> Based on econometric evidence, Hylke Vandenbussche, Jozef Konings, Linda Springael (“Import Diversion under European Anti-Dumping Policy” 1999) find that even when cases are terminated, imports from countries subject to investigation decline by around 17%.

- *the size of financial and other costs imposed on business;*
- *the impact of uncertainty caused by the investigations, quantified where possible;*
- *suggestions for improving the conduct of investigations.*
- *Feedback on the role played by UK government officials from BIS and HMRC during the course of investigations.”*

## 2. Methodology

### 2.1 Research methodology

- Research was conducted principally by telephone discussion with survey participants.
- The sample was selected on the basis of new cases that had been completed over the past 3 years. BIS identified as many of the companies/associations that had contact with them in relation to these cases as was possible.
- Discussions with survey participants were structured around a questionnaire, which was sent to participants in advance of the arranged telephone call.
- When no more telephone interviews could be obtained from the list of potential participants, remaining invitees were given the opportunity to participate by email with a shortened list of questions.

### 2.2 Survey participants<sup>2</sup>

- There were 30 participants in the survey, 23 by telephone and 7 by email. The characteristics of the survey participants are set out below.
- Telephone discussions varied between 15 and 75 minutes. The average duration of telephone discussion was 31 minutes.
- There was a good range of types of interested party in the sample, with all the various types of interests represented (see table 1). It was also useful that SMEs were represented within each of the major groups.

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<sup>2</sup> The consultant would like to thank all participants in the survey for their critical contribution to this project.



**Table 1**

	Participants	Of which SMEs
Association	5 (15%)	N/A
Exporter	1 (3%)	0
Importer/Retailer	4 (12%)	3
Producer	6 (21%)	1
User	16 (48%)	4
<b>TOTAL</b>	<b>32 (100%)</b>	<b>8</b>

- Note that the total figures presented in the various tables and charts of this report vary. The variations are explained by the fact that a) not all questions were relevant to all parties (e.g. some questions relate to companies and not associations) b) the 7 email participants answered a shorter list of questions c) of the email participants, not all of them answered all of the questions they were asked d) some participants were involved in more than one investigation.
- Given that the focus of the project is on UK interests, exporters were not explicitly included in the survey. However, one of the survey participants was a global company and had been involved in an investigation as a UK interest and in another investigation as an exporter.
- The 5 Trade/Industry Association that participated in the survey represented the following interests. 'Multi-interest' means that they included both producers and importers/users as members.

**Table 2**

	Associations
Producers	1
Importers/Users	3
Multi-interest	1

- The survey participants had been involved in 11 different anti-dumping investigations:
  - Aluminium foil (certain) (also aluminium foil in small rolls)
  - Aluminium road wheels (certain)
  - Steel fasteners
  - Ceramic Tiles
  - Coated fine paper
  - Fatty alcohol and their blends
  - Glass fibre products (certain continuous filament)
  - Glass fibres (certain open mesh fabrics)
  - Melamine

- PET
- Vinyl Acetate
- Some companies were involved in investigations that are still on-going. These investigations were not included in the report though, in some cases, views were expressed on these cases and these have been included in a general way.
- For clarity, the following terminology is used in this report:

**Producer/Manufacturer** = complainant or member of EU industry in AD investigation

**User** = manufacturer of product using product subject to investigation.

**Importer/retailer** = a company that imports and resells the product without undertaking any further processing.

**Association** = an industry or trade association representing members.

- This terminology is used because it is generally accepted. However, there is perhaps a problem with this terminology due to the fact that a 'user' is also a producer. This is discussed further in section 5.1 under the subheading 'transparency and communication'.
- The survey also contained a good mix of national/multinational companies as shown in table 3.

**Table 3**

	UK/National	Multinational	Total
Producer	3	4	7
User	3	6	9
Importer/Retailer	3	1	4
Exporter	0	1	1
	9 (43%)	12 (57%)	21 (100%)

- A couple of general comments on the limitations of the sample can be made. After discussion with BIS, it was agreed that the sample methodology used was the most appropriate and cost effective method. However, it is important to recognise that there are some unavoidable limitations in this approach. The sample only includes companies that contacted BIS. Thus, it does not reflect the experience of companies that did not contact BIS. For example, there may be companies that did not know about anti-dumping duties until after they were adopted and thus did not even know to contact BIS during the investigation. In an ideal world, their experience would be very useful to the study.

- Also, not all companies that had contacted BIS responded to the survey request. Perhaps some of these companies had pulled out of the product concerned altogether or even gone of business. Again, it would have been valuable to have feedback from such companies in the survey but only those who volunteered to respond were involved. Efforts were made to contact all companies several times by email and some by telephone.
- The relatively limited sample size was partly a decision to ensure the quality of responses. The survey was restricted to very recent cases also because it was felt that, beyond 3 years, corporate memories of the experience might be more limited.
- Within the budget constraints, and the practicality of identifying such companies, the methodology based on those companies that have contacted BIS was the most practical one. Acknowledging these limitations is not intended to devalue the survey but rather to recognise the caution that needs to be exercised in making generalisations from the survey results. Some interesting general conclusions can be made but they do come with the usual type of health warning for a project of this nature.

## 3 Survey Results<sup>3</sup>

### 3.1 Basic information

#### 3.1.1 Hearing about the case

- How interested parties heard about investigations varies between different survey participants.
- Complainants/producers obviously are involved from the start of the investigation.
- A majority of users and importer/retailers heard about an investigation from industry contacts in the market as shown in table 4. This was at initiation in some cases but in other cases it appears to be around provisional duties which is a potential problem (see 3.1.3 for more detail).
- Large users are often contacted directly by the Commission.

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<sup>3</sup> This section reports the results of the survey and the comments of survey participants without any commentary from the consultant. Section 5 reviews the survey results and provides comments on the issues and suggestions.

**Table 4 – How did you hear about the investigation?**

	Commission	Market	Trade Assoc	Trade Press	Total
Associations		1	2		3
Imp/Ret		4			4
Producer					0
User	3	4	1	1	9
	3	9	3	1	16

Table 5 presents this information just for the SMEs in the sample:

**Table 5 – How did you hear about the investigation (SMEs)?**

	Commission	Market	Trade Assoc	Trade Press	Total
Imp/Ret	0	3	0		3
User	0	1	0	1	2
	0	4	0	1	5

It is notable, but perhaps inevitable, that none of the SMEs in the survey were contacted by the Commission. This means that the market was the principle source of information on anti-dumping for most SMEs in the survey.

### 3.1.2 Level of understanding

- Most survey participants had no previous involvement and no understanding of the key issues.
- Even for companies that had been involved in previous cases, personnel had changed, so the person dealing with a new case may not have had previous experience.
- Participants generally said that they had access to enough information. BIS was praised for providing guidance on the process to those with no experience.
- The extent to which survey participants had previous experience of anti-dumping is shown in table 6.

**Table 6 - Previous experience?**

	Yes	No	Total
Association	0	4	4
Importer/Retailer	1	3	4
Producer	1	3	4
User	4	4	8
	6	14	20

Looking only at SMEs, none of the survey participants had previous experience:

**Table 7 - Previous experience (SMEs)?**

	Yes	No	Total
Importer/Retailer	0	3	3
Producer	0	1	1
User	0	2	2
	0	6	6

### 3.1.3 Timing of involvement

- The time at which interested parties get involved in the investigation varied by type of interested party.
- Obviously complainants/EU industry are usually involved from the start by definition.
- For users and importers/retailers, there is a mixed picture. The majority of importers/retailers and half of the users got involved at the time of initiation. However, a significant number of interested parties, and half of the users, only became involved at the time of provisional duties.

**Table 8 - When did you get involved in the investigation?**

	Initiation	Provisional	Definitive	Total
Associations	3	1	1	5
Imp/Ret	3	1	0	4
Producer	5	0	0	5
User	7	6	1	14
	18	8	2	28

- For SMEs it can be seen that a significant number became involved at initiation, though this was less than half of the SME survey participants.

**Table 9 - When did you get involved in the investigation (SMEs)?**

	Initiation	Provisional	Definitive	Total
Imp/Ret	2	1	0	3
User	1	3	0	4
	3	4	0	0

### 3.1.4 Legal advisers

- Some complainants and larger users did use legal advisers or consultants.
- Most SMEs do not use legal advisers and attempt to represent themselves.

Table 10 - Did you use a legal adviser?

	Yes	No	Total
Association	0	3	3
Importer/Retailer	0	4	4
Producer	2	2	4
User	5	3	8
	7	12	19

Table 11 - Did you use a legal adviser (SMEs)?

	Yes	No	Total
Importer/Retailer	0	3	3
Producer	0	1	1
User	1	1	2
	1	5	6

### 3.1.5 Coordination with other companies

- Some users tried to coordinate responses to the anti-dumping investigation with other companies (e.g. forming defence coalitions) and found a lot of apathy.
- Larger users did manage to form coalitions. They shared legal fees and had joint submissions/hearings. This seemed to work well.

### 3.1.6 Contact with BIS and Commission

- All companies had contact with BIS. This was by definition because the survey was selected on the basis of companies that had contacted BIS in relation to anti-dumping investigations over the past few years.
- A majority had contact with the European Commission but a significant minority (around one third) did not.

**Table 12 - Did you have contact with the European Commission?**

	Yes	No	Total
Association	1	4	5
Importer/Retailer	4	0	4
Producer	4	1	5
User	9	4	13
	18	9	27

- A significant number of SMEs had contact with the Commission as shown in table 13. This perhaps indicates that the Commission is accessible to SMEs.

**Table 13 - Did you have contact with the European Commission (SMEs)?**

	Yes	No	Total
Importer/Retailer	3	0	3
Producer	1	0	1
User	2	1	3
	6	1	7

## 3.2 Impact of the investigation

### 3.2.1 Cost

- One of the aims of the project was to assess the size of financial and other costs of an anti-dumping investigation on a business. Survey participants were asked to estimate the amount of time the investigation had involved for them and their staff.
- There was great variation in the **time input** to the investigation amongst different participants.
- Across the whole survey, table 14 shows the time input by type of interested party:

**Table 14 - Time Input (person days)**

	0-1 days	2-5 days	6-30 days	1-6 months	>6months	
Producers	0	1	2	2	0	5
Importers/Retailers	0	0	3	1	0	4
Users	2	3	6	2	0	13
Exporter	0	0	0	0	1	1
TOTAL	2	4	11	5	1	23

- The vast majority had a time input of up to 30 days.
- For the six SMEs, five of them had time input between 5-15 days. One of the SMEs had a time input of 100 days.
- For the one SME that had a very significant input (100 days), the issue of anti-dumping was a matter of life and death for the existence of the company. The threat to a company's business is one of the principle motivations for investing significant resources in an investigation.
- A notional cost to the company was calculated using daily rates of £800 per day (director), £400 per day (senior/middle manager), £200 per day (junior manager)<sup>4</sup>. Reduced estimates to test the sensitivity of results to the assumed daily rates were taken as 30% lower.
- For those with turnover information for the product concerned, these costs could be expressed as a percentage (all survey participants).

**Table 15**

	Producers	Imp/Retailer	Users	Total
0.00%-0.1%	4	0	6	10
0.1%-0.5%	1	3	1	5
0.5%-1%	0	1	0	1
>1%	0	0	0	0

- For a majority of survey participants the cost of the time input was less than 0.1% (i.e. less than one tenth of 1%). Only 1 company was above 0.5% (0.7%) and no-one was above 1%.

<sup>4</sup> Although this was not a question in the survey, a couple of survey participants volunteered notional daily rates around these levels for the cost to the company of the various management levels involved in an anti-dumping investigation. An attempt to verify these figures was made from the UK National Statistics "Annual Survey of Hours and Earnings". From this source, average daily pay in 2010 was as follows: Directors and Chief Executives £419, Corporate Managers £175, Chartered and Certified Accountants £134. In order to include an estimate of the additional costs on top of pay, ILO statistics for 2004 show that UK average labour cost per hour was £16.69 and earnings per hour £12.03, suggesting an average cost in addition to earnings of 38.7%. The above rates converted to daily cost would be £580 per day for Directors, £243 for Corporate Managers, and £185 for accountants (these rates are around 30% to 40% lower than those suggested by the companies). Based on this average data, the figures used in the report calculations may be a little high. Thus, the rates are perhaps an upper boundary and the analysis must test the sensitivity to lower rates. However, the opportunity cost of these time inputs is not included in the UK National Statistics Data (i.e. cost of lost business through time spent on the anti-dumping investigation), so the rates given by survey participants perhaps take this into account. Nevertheless, the costs are calculated at 30% lower for comparison.



- Importers/retailers had generally higher % costs in relation to turnover compared to the other survey participants. For the sample, it does not appear that importers/retailers put in more time overall but, rather, this seems to have been caused by generally lower turnover. This emphasises the point that time input costs for anti-dumping investigations can start to get significant for SMEs.
- **Travel costs** were not significant. In most cases, travel costs for AD purposes were subsumed within trips incorporating other issues e.g. some participants were in Brussels/London regularly and coincided any AD meetings with existing trips.
- Some companies did incur travel costs but this was up to a maximum of £2000 to £3000 and is not significant in relation to turnover.
- **Legal fees** were not incurred by all participants. Of those that did, not all of the survey participants a) were prepared to reveal how much they spent b) knew how much was spent e.g. they used the law firm used for the company for many other matters so there was no separate bill for AD.
- For users, legal fees varied between £35,000, £65,000 and £100,000.
- For manufacturers, legal/consultancy fees were £5,000 (£20,000 shared between 4 companies) and £350,000.

**Table 16 – Legal fees as a % of turnover (where available)**

	<b>Fee</b>	<b>% of turnover</b>
Users	35,000 to 100,000	0.003%-0.333%
Manufacturers	5,000 to 350,000	0.003%-0.160%

- For those companies that gave information on legal fees the total cost is shown in table 17.

**Table 17 - total cost of anti-dumping investigation as % of turnover**

	<b>Legal cost</b>	<b>Time cost</b>	<b>TOTAL COST</b>
User 1	0.333%	0.176%	<b>0.509%</b>
User 2	0.003%	0.000%	<b>0.003%</b>
Manufacturer 1	0.003%	0.003%	<b>0.006%</b>
Manufacturer 2	0.160%	0.364%	<b>0.524%</b>

Table 18 - Range of cost of AD investigations as % of turnover

	% of turnover
Time Cost	0%-0.7%
Legal Cost	0%-0.3%
TOTAL COSTS	0% to 0.7%

- The company whose legal fees were around one third of one per cent incurred time inputs of around 0.2%. However, if the retailer/importer whose time input was around 0.7% had used a lawyer to this level, the AD case would have cost around **1% of turnover of the product concerned**. From the sample information, therefore, this can be seen as the extreme situation and therefore forms an upper bound for the cost of being involved in an anti-dumping investigation.
- At lower daily cost rates for time inputs (30% lower – see footnote 3 above) the maximum time cost would be around 0.5% and the maximum legal cost around 0.2% i.e. maximum total cost of 0.7% rather than 1%. This is still significant.
- Although at face value these appear to be relatively modest percentages of turnover, they could be significant for companies operating on small margins.
- Also it should be pointed out that this excludes the cost of uncertainty which is very difficult to value but nevertheless could be significant.

### 3.2.2 Impact on business

- The evidence gathered from survey participants on the impact of anti-dumping investigations on the market and their business was qualitative rather than quantitative. It was hoped that participants would be able to quantify the impact of anti-dumping investigations but this proved not to be the case. None of the survey participants were able to quantify the impact of the anti-dumping investigation. One of the main problems was that participants always identified other factors that were affecting the market and these were difficult to separate from the impact of anti-dumping. Participants were not able, or willing, to provide precise estimates. This was even the case for straightforward data such as the volume imported from the investigated country and other countries. It was certainly the case for more obscure concepts such as trying to put a value on the uncertainty that some participants claimed was significant during the investigation.
- The following is a summary of the comments made by survey participants, grouped by the status of the participant. Each bullet point was a comment made by a different company in relation to the investigation in which they had been involved.

#### USERS

##### *Comments from users:*

- *Importing the same volume - quality much better.*
- *No impact/took the view that we would win the case/product excluded so no duty applied.*
- *Flow of imports fell dramatically - difficult to weigh influence of ADD because there were various other significant factors.*
- *No impact - most imports on long term contracts and no ADD applied in the end.*
- *A lot of uncertainty was created but by the time of provisional measures, ADD was lower than feared and market absorbed it. Some shift towards other products but difficult to distinguish from other factors.*
- *No impact on initiation/sourcing aware/sufficient stocks. Duty considerably reduced – no impact. Other dynamics/economic crisis/difficult to be specific. Mitigate impact of uncertainty by stockpiling – impact on cashflow.*
- *A lot of uncertainty. Quarterly price negotiations – upward pressure on prices. Direct impact on downstream. No room to substitute – bought same volumes with impact on profit.*
- *No longer viable to import. Bought from EU. Impact – imports of downstream if imports increased/unable to compete on price.*
- *No decrease in imports because EU industry could not supply. Increased cost. Looking to switch but re-sourcing takes time/engineering effort.*
- *No change in level of imports.*

- *Switch to other import sources.*
- *Varied suppliers.*
- *Not aware of decreased imports. Switch to other sources.*

## IMPORTERS/RETAILERS

### *Comments from importer/retailers*

- *Disturbed patterns of trade/biggest problem was uncertainty. Difficult to quantify impact/coincides with recession. Since duty imposed, everyone has found a way around it. Switched all purchases to other countries where we can buy at pre-ADD Chinese price.*
- *No reduction in imports from China but buying cheaper materials. Customer loses out because the quality isn't as good.*
- *Impact on cashflow after initiation – bought 1 years' worth of stock. Uncertainty. Provisional duty 38% livable – product still saleable. Terrible PR with customers – thought we were profiteering.*
- *Very high duty – imports stopped. Switched to elsewhere e.g. Taiwan, Malaysia at 20%-30% premium.*

## MANUFACTURERS

### *Comments from manufacturers*

- *Significant change of supply – some importers raised prices, some switched to 3<sup>rd</sup> countries. Possible circumvention (separate case). This company said that the aggressive shift towards Chinese imports has been arrested but that it will only be temporary. The Chinese will always find a way. No uncertainty in the market as result was widely expected.*
- *ADD helped. Imports dropped off, even at initiation.*
- *Debatable difference in market place. Some improvement in the market. ADD has been helpful, allowed us to employ 100 more people.*
- *Market dynamic and difficult to isolate impact.*
- *No impact on initiation. Initial duty relatively high - reduced imports slightly but stocks were high. Then duty reduced to more modest level. No shift to other sources/already coming in and didn't change.*

## ASSOCIATION

- *In relation to the impact of anti-dumping on business, an association representing manufacturers raised a point that apparent lack of commitment of UK Government to manufacturing is interpreted by investors as manufacturing is not welcome in the UK. Investors concerned about lack of support to manufacturing.*

### *Impact of Measures as perceived by survey recipients<sup>5</sup>*

- Of cases ending in measures, the above information can be summarized as follows in relation to imports from the investigated countries:

**Table 19**

	<b>Apparent impact - Decreased imports</b>	<b>Apparent lack of impact - Same or increased imports</b>
Users	2	6
Importers/Retailers	2	2
Producers	1	2
<b>TOTAL</b>	<b>5</b>	<b>10</b>

- Several concluding observations can be made about these comments:
  - Every case is different and even every company is different. It is very difficult to generalize.
  - What happens depends on a) elasticity of demand (substitutability) i.e. if there is a substitute that is cheaper than the product subject to anti-dumping duties it is more likely that companies will switch b) actions taken to mitigate impact and risks, particularly where parties are actively involved in the investigation c) level of anti-dumping duty.
  - Business is adaptive. Even if the impact is painful, in all cases adaptations had been made by importers/users (even in the most extreme situations), just as would be the case for other types of 'shock' to the market.. Of course it can be acknowledged that by definition we perhaps only talked to companies that were able to adapt. Those that were unable to adapt may have gone out of business.
  - The perception of many of the survey participants is that there would appear to be a benefit of early awareness and strong user/importer intervention. There were numerous examples of the situation being improved (i.e. lower definitive than provisional duties, product exclusions, case terminations etc.) where there had been early intervention from users/importers. However, in the survey there was one notable exception to this where very active interventions had been made but this did not improve the situation

<sup>5</sup> This section summarises what survey recipients said about the impact of anti-dumping measures. Section 4 assesses the impact based on Eurostat data.

(which was a prohibitively high anti-dumping duty). Of course, in theory the Commission is not able to reduce the level of duty on Union interest grounds. But significant user/importer intervention may have a significant impact on the duty in terms of issues such as product definition, adjustments for the lesser duty calculation and increased understanding of injury/causality issues.

- According to the perception of survey participants, there is little or no impact of the initiation of an investigation on imports and, overall, there is a mixed impact of provisional/definitive anti-dumping measures on the level of continued imports from the investigated country. A majority of survey participants report no negative impact on volumes from the covered country following AD measures.
- The main impact of anti-dumping duties on the business of users/importers is a) the impact on cashflow of stockpiling imported product prior to adoption of provisional measures. This would show up as an increase in the volume of imports before anti-dumping duties, followed by a reduction in imports once the duties have been imposed b) increased cost of importing product whether imports continue from the investigated country or there is a switch to other sources. This would show up as an increase in the duty paid unit value of imports, or decrease in volume, or both.

### 3.3 Transparency/Communication

#### General comments

- Survey respondents views on transparency seemed to depend on their particular interest and the outcome of the case.
- BIS was generally complimented on its openness, willingness to listen etc. Many participants had great praise for BIS, even for some in situations where the UK government's approach was not what the participant wanted (though not in all such situations).
- Frustration with lack of explanation on specific points was expressed by some survey participants. But most of these points related to issues beyond BIS control e.g. dumping calculation.
- For the European Commission, participants reported a mixed experience. Some found the Commission straightforward to deal with and were just as complimentary as they were towards BIS.
- One person made the point that the system doesn't seem transparent but it is once you know what you are doing.
- Others found the Commission very difficult to deal with and the system not transparent (all were users/importers).

## Manufacturers

- Some manufacturers were very negative about the transparency of BIS. Some felt that the UK had shown no interest in their situation, that BIS listens only to retail and that BIS does not support manufacturing.
- Some felt that there was a contradiction between different parts of BIS and that a 'business' department should mean what it says.
- Others were positive. One said that BIS had been 'friendly and open' and another said that they had a 'fair hearing'. Another said that BIS was good at feedback and advice. It was appreciated by some that the UK would explain its decision even if the manufacturers didn't agree with it.
- BIS was praised for returning telephone calls and answering queries promptly.
- A couple of respondents mentioned that communication channels can get more difficult in cases that get highly political.

## Users/Importers

- Users generally found BIS very helpful.

## 3.4 Outcome

- Generally, survey participants were satisfied if they had a good outcome and vice versa.
- Some users/importers had the experience that definitive duties were lower than provisional and that this outcome was more acceptable.
- Manufacturers were generally satisfied with the outcome, though not in all cases. Some felt that higher duties would have been justified.
- Concerns were raised about cases with political pressures where the process becomes less transparent.
- One manufacturer made the point that it is getting harder to prove dumping/injury.
- One company made the point that when a complaint is withdrawn a finding should still be made.
- According to a survey participant, one case had an outcome that no-one expected, not even the complainants. The duty was so high that imports were no longer possible. This stood out in relation to the other cases in the sense that, while every case inevitably has satisfied and

dissatisfied parties, the overall impression from the 11 cases is that the duty levels do balance the various conflicting interests and that business is able to adapt. Again we can note that the survey only includes companies that by definition have adapted to the duties. It is possible that duties drove some companies out of business and this is not reflected in the survey.

### 3.5 Trade Association

- Most company participants in the survey are members of a trade association.
- However, a common problem in the sample was that trade associations found it difficult to take a position because they are often include both manufacturing and importing interests.

### 3.6 Trade Media

- The common experience of survey participants is that the trade press does cover anti-dumping but in a minimal way.

### 3.7 Improvements suggested by survey participants

- This is a list of other points raised by survey participants, particularly in the context of the open question on improvements at the end of the survey. This section merely lists all comments made as part of section 3 on the survey results. Some brief comments on each of these points is made in section 5.2.

#### 3.7.1 Finding out about cases/Communication

- Survey participants made the following comments in relation to finding out about cases:
  - BIS should engage in more PR about AD cases, especially with trade associations.
  - BIS should be more proactive in identifying possible interests – particularly users but also Union industry.
  - BIS put out more PR on cases – take out adverts in trade press? Email/text service?
  - BIS should publish that a complaint has been submitted.



### 3.7.2 Any other suggestions from survey<sup>6</sup>

Other issues raised by survey participants (relating to BIS)

- Improve conference facilities in BIS (one survey respondent experienced a problem with BIS finding a suitable meeting room).
- Proactivity on issues affecting global companies e.g. definition of EU industry etc.
- Feedback on UK position should be provided once agreed.
- Importance of building up industry knowledge to understand key points.
- Improvements to HMRC ability to deal with anti-dumping queries.
- Provide guidance on political channels to follow in early stages of process

Other issues raised by survey participants (relating to Commission/broader EU-wide issues)

- Simpler questionnaires for users/importers given apathy/lack of incentive to participate.
- Review of voting system to make it less political.
- Commission should be more proactive in identifying and contacting users.
- More account should be taken of companies producing downstream products. Duties should be imposed down to finished products.
- Commission should make a finding when investigation is terminated even if complaint is withdrawn.
- Problem with same level of duty applying all products (both high and low value) –should be minimum price rather than ad valorem duty.
- Commission should have more room for discretion.
- There should be ex post assessment of ADD to get better understanding of dynamics once duties are imposed. Confirm whether arguments that EU producers don't have necessary production capacity were realised.

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<sup>6</sup> Note that this section merely lists comments made by survey participants. In section 5, comments on the survey and the implications for BIS are made.

- Abolish anti-dumping.

## 4 Impact of anti-dumping based on Eurostat data

### 4.1 Import Volumes

- In addition to the survey an analysis of Eurostat data was conducted for the 11 different products that fell within the survey.
- Annual and monthly import data (volume and value) were obtained for each of the CN codes covered by anti-dumping measures for the period 2004 to 2011. This allows a long enough period to put more recent trends into context and the monthly analysis allows some insight into what happened in the months following initiation of investigations and adoption of anti-dumping duties.
- There are some cases where the investigation covers only part of an 8 digit code (i.e. there are products not subject to anti-dumping investigation in the same code). However, in looking at the trends, even in these cases, the data should give a reasonable picture.
- The import data has been used as extracted from the Eurostat database. In some cases there may be serious questions about the reliability of the data. For three products (aluminium road wheels, ceramic tiles and glass fibres (certain open mesh fabrics), the Commission's import volume analysis was not on the basis of weight but, rather, on the basis of the "supplementary quantity"<sup>7</sup>. In the case of ceramic tiles, the supplementary quantity data provided by Eurostat is significantly different to that provided by the European Commission in the regulations imposing the duties. However, the trend is similar where it can be compared, so the 'units' data for tiles has been used rather than weight. For the other two products, the supplementary quantity data is incomplete and, that which is available, appears highly unreliable. Thus, in these two cases, the volume analysis in section 4 and annex 2 has been undertaken by weight. There is always a health warning on Eurostat data, especially unit values as a representation of price. However, for ceramic tiles and glass fibres, a particular health warning is applied. Nevertheless, the analysis is conducted taking the data at face value.

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<sup>7</sup> The supplementary quantities are as follows: wheels = number of units, tiles = square metres, glass fibres (open mesh fabrics) = square metres.

- Graphs of the data for each of the 11 investigations are provided in annex 2<sup>8</sup>. For each investigation, 5 graphs are provided:
  - Annual import volume for 2004-2011
  - Monthly import volume for 2004-2011
  - Monthly unit values for 2004-2011
  - Annual % of investigated imports in relation to total imports
  - Monthly % of investigated imports in relation to total imports
- In addition, a page is provided for each investigation summarising the main observations of the data in terms of impact at a) initiation and b) adoption of anti-dumping duties. A brief comparison is also made with the comments made by survey participants on the impact of AD duties on import volumes (summarised in section 3.2.2).
- Some overall conclusions can be made from this analysis (see annex 2 for the product by product detail):
  - In most cases, the data confirmed what survey participants had said.
  - In a small number of cases the data conflicted with what survey participants said. However, it can be noted that data is analysed for the EU as a whole and includes imports into all 27 member states. Comments were provided by individuals from UK companies that may reflect only UK imports or even developments just for their company alone.
  - There does not seem to be any discernible effect of anti-dumping investigation initiations. It is often claimed by commentators that just the initiation of an investigation (even the rumour of the initiation of an investigation) can have a negative impact on trade. Of 11 cases, only 3 saw a decrease in imports from the investigated country around the time of initiation. Of these 3 cases, total imports (covered plus uncovered) fell rather than there being substitution away from the investigated imports. This could suggest that other factors were causing the decrease rather than the anti-dumping duty or that substitution to EU producers had occurred.
  - For 9 cases, the level of imports stayed the same or even increased after initiation. In some cases, increased imports in advance of provisional duties (stockpiling between initiation and provisional duties) was apparent.

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<sup>8</sup> Small aluminum foil rolls was also included even though the investigation is on-going so there are in fact 12 sets of graphs. The reason for this is that small rolls were highly relevant in considering the impact of anti-dumping duties on large aluminum foil rolls.

**Table 20 – Impact of initiation on imports from investigated country**

Decrease	Same/Increase
Aluminium foil (large) Aluminium road wheels Melamine	Ceramic tiles Coated fine paper Fatty alcohol Glass fibres (continuous filament) Glass fibres (open mesh) PET Steel fasteners Vinyl acetate

- The Eurostat data overall suggests that the introduction of provisional/definitive anti-dumping duties does have an impact on the volumes of investigated imports imported. The impact seems to come at provisional duties so the analysis for definitive duties is not done separately.
- In some cases, the evidence from the Eurostat data is in contrast with the comments of survey participants. However, those comments were made by individual UK companies. The Eurostat data is analysed at the EU level and for total imports. Thus, it is possible that the trends could differ between an individual company and total imports.

**Table 21 – Impact of provisional/definitive anti-dumping duties on imports from investigated country**

Decrease	Same/Increase
Aluminium foil (large)* Ceramic tiles* Coated fine paper Fatty Alcohol* Glass fibres (open mesh) * Melamine* Steel fasteners*	Aluminium road wheels Glass fibres (continuous filament)

*\* indicates there was at least some substitution towards other imports*

- In summary, in 7 cases survey participants claimed that imports decreased upon adoption of anti-dumping duties (6 of these involved at least some substitution towards other sources). In 2 cases, imports did not increase upon adoption of anti-dumping measures.

## 4.2 Unit Values

- Annex 2 includes charts showing the trend in unit values for each of the products considered.

- These charts are not straightforward to interpret. Unit values are only a rough approximation of price. Changes may reflect a change in product mix rather than changes in price.
- In several cases it appears that unit values have increased following the introduction of anti-dumping duties. This is not directly due to the anti-dumping duties as the unit value represents the CIF import price (i.e. the price on which duty would be paid). It could be due to a change in product mix. If volume falls after the introduction of an anti-dumping duty, there may be a shift in the remaining imports towards higher value products (e.g. more specialised products may have lower elasticity).

## 5. Comments on the survey findings, the implications for BIS

- This section provides the consultant's comments on the survey findings. The survey findings are summarized in this section preceding any relevant comments. More detail on the survey findings is provided in section 3.

### 5.1 Issues arising out of survey analysis

#### **Hearing about a case**

Summary of Survey:

- This is not an issue for producers but it is for users and importers that don't find out about an investigation as a matter of course.
- The majority of users/importers hear about investigations through market.
- There is a problem for some using/importing SMEs who are less likely to be contacted by the Commission and don't hear until provisional.

Comment:

- HMG cannot guarantee that all relevant UK interests can be informed of an investigation at the time of initiation.
- As with any trade & customs issue (e.g. GSP, duty suspension, quotas/licensing), it is the responsibility of an importer to be aware of possible risks.
- However, HMG can be vigilant in maintaining/raising awareness of anti-dumping.
- Possible initiatives to maintain/raise general awareness of anti-dumping

- Review AD information on UK Government websites. BIS, HMRC and Business Link all have anti-dumping sections on their websites. BIS – focuses on rationale for AD and other TDI. Also summarises WTO agreements. HMRC and Business Link (who have developed their AD page with HMRC) are more user friendly and practical than the BIS AD page. However, their focus is on AD as a customs issue. There is no information on the process of an anti-dumping investigation and how to get involved.
- Include more practical information on the BIS website. As an example, see the SMEs page under the Information for Business section of the Trade Defence part of the excellent DG Trade website. It includes sections entitled “Are you an SME importing or using an imported product that could become subject to trade defence measures?” and “are you a producing SME affected by low-price imports?”. Could BIS have a page for producers and a page for users/importers where practical information on the process and how to get involved could be provided? Suggestions for possible content are made in response to some of the other issues below.
- Review of search engine optimisation (SEO) for BIS anti-dumping page – currently “UK anti-dumping” in Google brings up BIS in 8<sup>th</sup> place. Top 6 are taken by other HMG websites on anti-dumping – HMRC, Business Link, Business Gateway, Business Wales. For “anti-dumping”, BIS comes halfway down the second page. Whilst SEO is not a precise science, all efforts should be made to maximise the positioning of the BIS anti-dumping page in web searches.
- Possible AD information initiative with trade associations – Trade associations can highlight potential risks of anti-dumping for members and provide advice on how to monitor (e.g. checking relevant websites, signing up for notification service etc.).
- BIS could create a dedicated email notification service for anti-dumping. Currently BIS has an email notification service but it is generic and covers many topics. Anti-dumping is not included as a separate topic, the closest topic is ‘trade’. The consultant subscribed to this service on 15 April 2012 and no notifications on trade have been received at the date of this report.
- Initial research period – On receiving notification that a complaint has been received, BIS could conduct web searches to identify users & importers as well as relevant trade associations. It is recognised that this can never be fully comprehensive but it should be attempted in every case.
- There is a question as to whether increased participation would result in higher costs for companies’ involvement in anti-dumping investigations.

However, as previously mentioned, more information can only be good and companies can make their own mind up how much they wish to participate. It would perhaps be helpful for BIS to point out what proportion of investigations result in measures (i.e. that a significant but minority proportion of investigations end with no measures), and provide an indication of the average level of measures, so that interested parties do not have unrealistic expectations of the possible outcome of their interventions.

### **Level of understanding**

Survey:

- A majority of survey participants had no previous experience and therefore initially had low levels of understanding.

Comment:

- The implication of the relatively low level of understanding is that it is more difficult for companies to influence the outcome without more information.
- This really highlights the importance of good information on HMG websites.
- It has to be said that there was general satisfaction throughout the survey on the information and help available to understand the process. This shows that BIS is doing a good job. However, there are improvements that can be made.
- As highlighted above, it is suggested that the anti-dumping section of the BIS website should be improved.
- Given the low level of understanding, a basic checklist of relevant issues could be provided on the website. Given the different focuses according to the status of the interested party, it would make sense to make different checklists for 'producers' and 'users and retailers/importers'. Perhaps even separate checklists could be made for 'users' and 'retailers/importers', as the way in which each group is involved does differ substantially.

### **Timing**

Survey:

- One problem is that some users/importers are only motivated to participate when anti-dumping duties are applied (i.e. at the provisional stage).

Comment:

- On the BIS website, a point stressing the benefits of early participation, while being realistic about the extent to which individual companies can influence the outcome, could be provided in any new, practical material.

### **Legal Advisers**

Survey:

- A majority of survey participants did not use legal advisers. This was especially the case for SMEs.

Comment:

- The fact that many companies do not seek expert assistance highlights the importance of good clear guides/checklists on the BIS website covering what companies can do to defend their interests.

### **Coordination**

Survey:

- For users, it was not always possible to organise a coordinated approach to anti-dumping investigations. There was a lack of motivation and an unwillingness to participate. A common attitude is that others will do it.
- Where coordination was possible, it worked well. Costs of using a lawyer/consultant were shared and an effective campaign was run.

Comment:

- BIS could briefly outline the benefits of coordination for users/importers in new material on website, obviously subject to competition rules.

### **Contact with BIS and the Commission**

Survey:

- All participants had contact with BIS (which of course was the basis of the survey).
- Around two thirds of participants had contact with the European Commission.

Comment:

- As long as BIS is approachable (which the evidence of this survey shows that it is), BIS can advise if contact with the Commission is necessary/beneficial.



- For SMEs with limited resources, contact with BIS may be enough.
- BIS could include an explanation in any new material on its website as to the circumstances in which a company might be in contact with the Commission.

## **Cost**

### Survey:

- There was a great variation in time input between survey participants. The actual time input seems to be determined primarily by level of threat to business.
- Large companies can put in very significant staff resources, as can SMEs if the issue is a matter of life and death for the company.
- SMEs do vary in their time inputs but it can be noted that some put in very little time (yet they had strong views in the survey).
- Generally, total costs (time, travel, legal) are not significant in relation to turnover of the product concerned. For the majority, costs were less than 0.1% of turnover (i.e. less than one tenth of one per cent).
- It is possible that for an SME that puts in a lot of time and employs a lawyer, the upper limit of the cost could be 1% of turnover.

### Comment:

- If an SME importer, who in a worst case scenario may be working on relatively low margins such as 2% to 3% of turnover, incurs a cost of 1% of turnover, this could be a significant hit. As a share of profit margin, it could be very significant indeed.
- However, this is an extreme case and, for most companies, it would appear that the cost of an anti-dumping investigation is not unduly burdensome and is probably in line with many other costs associated with regulatory compliance.
- Nevertheless, the possibility of a significant cost highlights the importance of maximising the transparency and efficiency of the process. Although what BIS can do is limited in this regard (given that much of competence is with the European Commission), there are things that can be done that are highlighted elsewhere in this report.
- Ironically, if BIS was to be successful in encouraging UK companies to play more of a role in anti-dumping investigations this could increase the cost of involvement. For example, if there is an increase in UK companies contacting the Commission, they are likely to be required to provide

detailed evidence to back up points they make. This could involve significant additional time inputs and there are never any guarantees that this will successfully influence the case. However, this is a commercial decision and companies would have to weigh up the relative costs for themselves.

### **Impact on business**

Survey:

- Every case/company is different, making generalisations difficult and maybe misleading.
- There does not appear to be any impact on business at the initiation of an investigation.
- In some cases, there were significant falls in imports and substitution to other sources in reaction to provisional/definitive anti-dumping measures. But this was not in all cases.
- There is a sense that business adapts to AD measures, even if it is painful.

Comment:

- It is interesting how companies seem to cope with the initiation of an anti-dumping investigation so that it has little impact on business. Of course, 'coping' may still impose costs, not least in terms of uncertainty. Again it should be acknowledged that the sample is self-selecting
- We can speculate on why there is no apparent negative impact of an investigation on import levels. Possible explanations are:
  - Ignorance – if companies do not know about the investigation it will not have any effect. However, given that a majority knew about the investigation at initiation in the survey, this would not seem to be a likely explanation.
  - Stockpiling – companies that know that any duties will not usually be imposed for 9 months may actually increase imports to avoid later possible duties (stockpiling).
  - Greater understanding of AD – it may well be the case that in the past the initiation of an anti-dumping investigation alone would affect the level of imports because importers would fear that they would incur a duty. Perhaps today there is a better understanding that there is usually 9 months before any possible duties and importers, therefore, do not panic upon initiation as they may have done in the past. Even for those with no previous knowledge of AD, information is now readily available for those that seek it (BIS, Commission, internet, trade associations etc.), so that importers can quickly get up to speed.

- BIS could include information on its website about the timing of possible application of duties i.e. that after initiation, it is normally 9 months before adoption of any duties. Care must be taken not to be seen to be promoting stockpiling (which clearly takes place as evidenced in the survey) because there may be sensitivities to this amongst various interested parties including the European Commission and other Member States. But a simple explanation of the timing of provisional duties (including the remote possibility for retroactivity) is a factual explanation that would be helpful to importing parties. BIS should not be seen to be promoting stockpiling or early switching. However, giving this information greatly helps to reduce uncertainty for importers and, thus, would be desirable.
- The fact that there is substitution after the imposition of measures is not surprising when there is an increase in the cost of imports from one particular country. In fact, it is the intention of an anti-dumping duty to change prices which may result in changes in the market. One user even said that for the long term stability of the market sometimes duties might be desirable if one country is selling at unsustainably low prices. In this regard, they supported modest anti-dumping duties in the investigation in which they were involved (but in fact they ended up with very high duties which they vehemently opposed).
- Companies found it difficult to quantify the costs of uncertainty, so the impact is only measured in terms of time inputs and legal costs. However, even though such costs are difficult to quantify, it does not mean that they do not exist. Even though importers generally seem to adapt well to anti-dumping investigations, many of them did identify uncertainty as an issue when an AD investigation is initiated.

### **Transparency & communication**

#### Survey:

- The perception of BIS in relation to transparency and communication is generally good.
- There is a mixed perception of the Commission on these issues. Some called for more transparency at the Commission level.
- Some manufacturers were negative about BIS, particularly in relation to support for measures (or lack of it).
- More significant problems of transparency were raised in cases which become political (both with BIS and the Commission).

#### Comment:

- The system is relatively predictable in terms of transparency and communication with both BIS and the European Commission.

- Where survey participants highlighted problems with BIS or the Commission it would seem to be in situations where they are not happy with developments or the outcome, particularly in cases that are political. The system is not fully transparent (particularly in relation to the US system where lawyers and consultants have access to all confidential information held by the DOC and ITC). But the predictability and consistency of the system are good.
- BIS might reflect on the message it gives to those in favour of measures when HMG opposes AD duties. The survey has shown that the message is generally good but it is important always to give the perception that BIS is listening (which hasn't happened in all cases according to participants).
- BIS should be constantly vigilant to give realistic assessments and to explain the UK position while always keeping efforts to present an open mind. There is already good evidence that this happens but it is really important that all stakeholders feel BIS is always listening.
- BIS could better publicise the UK attitude towards anti-dumping. Perhaps BIS could even set out the circumstances in which the UK would support anti-dumping duties. This would deal with the perception that UK is only interested in importers/retailers and is not supporting manufacturing. In the BIS White Paper on 'Trade & Investment for Growth' (February 2011), the following statement is made: *"The EU has a range of trade defence instruments (i.e. anti-dumping, antisubsidy and safeguard measures). The UK is generally sceptical of the value of frequent use of such instruments. Even though the EU trade defence regime is in some ways among the most forward-looking globally, it needs to keep pace with the realities of the global economy. This means taking full account of global supply chains, weighing the impact of measures on all economic interests (not just producers but also industrial users, traders, retailers, consumers and employees) and ensuring transparency of operation. The Government will work to ensure that trade defence measures are more clearly targeted on cases of genuinely distorted trade. We will assess each case on its merits and ensure decisions to determine the UK position are based on a fact based economic analysis together with a consideration of representations from affected interests"*. This statement is helpful because it acknowledges that the UK is sceptical of frequent use of such instruments but that the UK will support the imposition of anti-dumping measures in cases of genuinely distorted trade. In this regard, it can be noted that the UK generally supports countervailing duties (anti-subsidy measures).
- It might be useful to review the terminology used in anti-dumping investigations. 'Users' are manufacturers and just as much part of 'EU industry' as EU producers that make AD complaints in the broadest sense of the word. Sometimes, importers can be characterised as inferior types of businesses that make a profit by buying products cheap and selling them more expensive. And users can sometimes be perceived more as importers than EU industry. BIS could consider whether there is a different terminology that could be used (e.g. 'EU manufacturers of the product concerned' and 'EU manufacturers using the product concerned' – these are not necessarily the best terms but they make the point for the purpose of the report). This might be something that BIS could put into the current review of TDI. It may also be worth including a re-evaluation of the

role of importers i.e. some importers have been importing the same product for many years and have built up distribution/retail operations that cannot just be transferred to any other product (examples of this were included in the survey). Such companies are a genuine 'industry'. This is not to say that there are no importers who are only out to make a 'quick buck' (in fact, some survey participants highlighted this as a problem in their industry where consumer safety is involved). Such efforts might help in changing perceptions that HMG is anti-business or anti-manufacturing. This is not a UK issue, of course, but this could be relevant to raise at the EU level during the modernisation review.

- Review the role of abstentions – Some participants understood abstention as the UK ducking their responsibility. It is a fact that an 'abstention' is effectively a 'yes' vote. Therefore, it should be questioned whether abstaining is helpful to the perceived role that BIS plays in the decision-making. This could be a discussion at an EU level i.e. including a real possibility to abstain or abandoning the concept.

## **Outcome**

### Survey:

- Some dissatisfaction was expressed by those survey participants who didn't like the outcome of their case but this is inevitable given the nature of anti-dumping.

### Comment:

- There is a clear benefit in the Commission 'moderating' the level of AD duty through the lesser duty rule. This generally seems to happen i.e. if dumping margins are high the lesser duty rule will allow the duty to be set at lower levels (with one notable exception in the survey). This very much contrasts with much higher duty levels in other countries such as the US. Overall, the right balance does seem to be struck with the level of duty, evidenced by the fact that (at least on the evidence in our survey) business does seem to be able to adapt to AD measures.
- As noted earlier, some importers/users felt that their intervention had an impact on the duty being reduced between provisional and definitive duties. This is not necessarily that the Commission is reducing the level of duty directly in response to political pressure from users/importers but rather it is likely to be through the user/importer interventions on injury margin adjustments, product definition and injury/causality arguments.
- That said, this should not be to encourage a perception that there could be a 'negotiation' over duty levels. There are already concerns about politicisation of the process and it would only make it more political if there was any possibility of negotiating the level of duty.

## Trade Association

Survey:

- The survey revealed a limitation on trade associations in representing their members in anti-dumping investigations due to multiple interests.

Comment:

- Trade Associations can be helpful to interested parties in a case but acknowledge that they are not in all cases. This is the same for both users/importers and producers.

## Trade Media

Survey:

- Survey participants reported only limited coverage of AD issues in relevant trade media.

Comment:

- BIS might research relevant trade journals in an initial research phase mentioned earlier.
- BIS could contact relevant journals on initiation of an investigation and encourage them to write a piece on it.

## 5.2 Suggestions by survey participants in open questions

- These points came out of an open question at the end of the survey. Each point is mentioned below and a brief comment made on it.

### Finding out about cases

- **BIS should engage in more PR about AD cases, especially with trade associations** – issue addressed in previous section.
- **BIS should be more proactive in identifying possible interests, particularly users but also Union industry** – issue addressed in previous section.
- **BIS put out more PR on cases. Take out adverts in trade press? Email/text service?** – issue addressed in previous section.
- **Publication that complaint has been submitted?** – issue addressed in previous section.

### Other BIS issues

- **Improve conference facilities in BIS** – presumably an isolated incident (the company had arrived and no meeting room could be found) but the perception of BIS as a professional organisation is relevant to every meeting. The room is an important part of that.
- **Proactivity on issues affecting global companies e.g. definition of EU industry etc.** – more consideration needs to be given to issues arising out of globalisation. Example issues: a) criteria for excluding EU producers from Union industry because they have production in the investigated country b) treatment of companies with no production in EU but high value added, both in definition of Union industry and in the Union interest analysis. BIS could engage in a dialogue with global companies. This was actually suggested by one of the global companies in the sample.
- **Feedback on UK position once agreed** – one participant was dissatisfied that he had read about the UK position in the press rather than hearing it more directly. Almost all participants were happy with the information and feedback they received, so this does not seem to be a problem. Also, there is a sensitivity about such feedback so HMG does not necessarily need to be too proactive on this front. However, BIS could review whether there is consistency in the feedback given to companies that have previously contacted BIS. There are constraints on what information can be provided to companies but the information that can be offered should be provided consistently across the board.
- **Importance of building up industry knowledge to understand key points** – a small number of companies felt that it had taken a long time for BIS to understand their arguments. This may be related to dissatisfaction with the outcome rather than BIS' understanding of the arguments. Nevertheless, whilst BIS clearly cannot be expert in every product subject to anti-dumping investigation, it is important that efforts are made to be briefed on the relevant issues for any particular industry. In fact, the measures suggested above to maximise the likelihood of companies hearing about the case early is important in this context. The best source of information on the industry for BIS are the companies themselves, so the earlier they make contact with BIS the better.
- **Improvements to HMRC ability to deal with anti-dumping queries** – This is outside the remit of this study. The point was made by one person in the survey and may not reflect a broader problem. However, it is worth asking the question about the effectiveness of the contact between BIS and HMRC. For example, if HMRC receives a difficult query on AD would it refer to BIS? Why does HMRC not reflect some of the broader issues on its website rather than the heavy focus on AD as a customs issue, even if this was to involve just mentioning broader issues and giving a link to BIS. In fact, it does this for making a complaint but not, say, for a user/importer that may be involved in an investigation.

- **Provide guidance on political channels to follow in early stages of process** – a brief outline of the relevant political channels in anti-dumping could be included in any new information on the website.

### **Commission/broader EU-wide issues**

- **Simpler questionnaires for users/importers given apathy/lack of incentive to participate** – There is a balance between the Commission getting enough detail to conduct a thorough analysis and asking too much from users and importers. What the participant who raised this point particularly objected to was the requirement to list all his suppliers which he said he was not prepared to do. This may reflect a personal gripe of the participant. But it is worth reviewing what is demanded from users/importers. As a practical matter, users/importers can be very useful for the Commission in identifying the actual level of imports, especially in cases where there is low cooperation. However, it is worth asking the question whether failure to provide detailed answers to the questionnaire results in SMEs' information being rejected. Is the balance right between a) ensuring high participation from SMEs and not being too demanding on them given the fact that they do not have to respond like exporters/complainants do and b) ensuring that the Commission has enough information to conduct a detailed and robust analysis. It can be noted that some users/importers spent little time on the investigation which is not the Commission's fault. It is not unreasonable that the system makes some demands on those that want to have a voice. i.e. more active participation will increase costs.
- **Review of the voting system to make it less political** – This is an issue beyond the scope of this study. Consider whether the member states should engage more in the technical detail e.g. in the US ITC, the Commissioners that vote on the case produced detailed opinions on the ITC staff findings. On the other hand, this has resource implications for Member States. It may well be the case that the current system, with imperfections, actually works well in the circumstances. This issue is worth reviewing.
- **Commission should be more proactive in identifying and contacting users** – as for BIS, question whether the Commission are doing internet research to try and identify relevant associations and, where possible, companies. It is recognised that there are practical limitations on this. The discussion above about confirming that a complaint has been received earlier than the date of initiation may be relevant here. This would give more time for parties to hear about the case and may at least partially improve this problem.
- **More account should be taken of companies producing downstream products. Duties should be imposed down to finished products** - It is not practical to impose duties down to finished products unless they are part of an investigation. However, the interest of users in anti-dumping is not just about the cost increase faced by an anti-dumping duty. There is



also the issue of the fact that an AD duty changes the incentives to produce downstream products in the EU. Exporters of the downstream product are able to sell in the EU without the AD duty on a critical input, while EU producers have to compete while paying the AD duty. It should be reviewed whether the Commission takes enough initiative in identifying these issues itself rather than only addressing them if they are raised by users. This comes again to the point on terminology and changing the perception of 'users' to be seen as another dimension of 'EU industry'. Also, perhaps complainants could be required to provide more detailed information about all the downstream industries in the complaint, which would brief both BIS and the Commission early in order that they could be proactive. Downstream effects could be given more weight in Union interest assessments.

- **Commission should make a finding when investigation is terminated even if complaint is withdrawn** – this would seem to be a fair proposal for interested parties that have gone through the long process of submitting questionnaires/submissions etc. This could be a topic for the modernisation review i.e. BIS/Commission to review reasons why the Commission does not do this.
- **Problem with same level of duty applying to all products (both high and low value). Should be minimum price rather than ad valorem duty** – This is not a straightforward issue. There are potential disadvantages with any duty system, none are perfect. A minimum price is much more difficult to administer because a) a different price is needed for each type of the product b) prices need to be regularly updated to take into account market developments. Also, the ad valorem duty has the advantage that it gives some flexibility to the system which allows the market to be more sensitive to other developments. Minimum prices are much more rigid and, although they can be adjusted, there is usually a lag in this.
- **Commission should have more room for discretion** – more discretion is likely to make cases even more political / unpredictable. Already there is a significant level of discretion which, as noted in the comment on outcomes above, may help in moderating level of anti-dumping duties (through the lesser duty rule).
- **There should be ex post assessment of ADD to get better understanding of dynamics once duties are imposed. Confirm whether arguments that EU producers don't have necessary production capacity were realised** – In principle this is an interesting proposal worthy of consideration. However, in order to do a meaningful analysis, detailed information is required. In this survey, for example, survey participants were unable or reluctant to estimate the impact of anti-dumping duties on their business or the market. Such an assessment would require a commitment from business that may not be possible e.g. comparable to an injury analysis of the Commission. Perhaps best approach would be to evaluate sunset and interim reviews, from which

information can be extracted on what happened to Union industry after measures were adopted.

- **Abolish anti-dumping** – Not politically feasible given current views of EU Member States and European Commission. Also, anti-dumping does serve some useful purposes (not least in channelling inevitable protectionist/political pressures into a predictable, relatively consistent, rules based process) so, even with its imperfections, abolition would not be desirable.

## Annex 1 – Details of Products in the Survey

Product	Countries	Dates	CN Codes
Aluminium foil (large rolls)	Armenia, Brazil, People's Republic of China	Initiate 12.7.08 Prov 8.4.09 Deftve 6.10.09	7607111910
Aluminium foil in small rolls	People's Republic of China	Initiated 20 Dec 11	76071111, 76071910
Aluminium road wheels (certain)	China	Init 13.8.09, Prov 11.5.10, Deftve measures, 28 Oct 10	87087010 87087050
Steel fasteners	China	Initiation 9.11.07, Deftve 31 Jan 09	73181290 73181491 73181499 73181559 73181569 73181581 73181589 73181590 73182100 73182200
Ceramic Tiles	China	Init 19.6.10, Prov 17.3.11, Deftve 15.9.11	69071000 69079020 69079080 69081000 69089011 69089020 69089031 69089051 69089091 69089093 69089099
Coated fine paper	China	Init 18.2.10, Prov 17.11.10, Deftive 14.5.11	48101320 48101380 48101420 48101480 48101910 48101990 48102210 48102290 48102930 48102980 48109910 48109930 48109990
Fatty alcohol and their blends	India, Indonesia, Malaysia	Init 13.8.10, Prov 11.5.11, Deftve 11.11.11	29051685 29051900 38237000

Glass fibre products (certain continuous filament)	China	Init 17.12.09, Prov 16.9.10, Deftve 15.3.11	70191100 70191200 70191910 70193100
Glass fibres (certain open mesh fabrics)	China	Init 20.5.10, Prov 17.2.11, Deftve 9.8.11	70194000 70195100 70195900 70199091 70199099
Melamine	China	Init 17.2.10, Prov 16.11.10, Deftve 13.5.11	29336100
PET	Oman, Saudi Arabia	Init 16.2.11, Term 14.12.11	39076020
Vinyl Acetate	United States	Init 4.12.10, Prov 17.8.11, Deftve 12.1.12 (termination)	29153200

## **Annex 2 – Detailed Eurostat analysis of import volumes**

Detailed Eurostat analysis of the import volumes is contained in “Research project on the impact of Anti Dumping investigations on UK business - Annex 2” which accompanies this document.