

Major EU-China antidumping cases

SUMMARY

In 2015, China remained by far the major target of antidumping (AD) investigations initiated by the European Commission. With a total of 53 AD measures in force against imports from China in that year, the country ranked ahead of Indonesia (10), Malaysia (6), Russia (6), India (5) and Taiwan (5). All six new AD probes in 2015 concerned the country, although Russia and Taiwan were also targeted in two of those.

AD duties imposed in past probes and expiring between 2016 and 2020 are concentrated in labour- and resource-intensive sectors, such as bicycles, ceramics, chemicals, solar panels and steel sectors, and concern industries with significant employment levels.

A review of some key AD cases in these sectors shows that, besides circumventing AD duties, Chinese exporters have increasingly engaged in litigation against the EU before the EU Courts in order to avoid non-market economy treatment. In parallel, the Chinese government, which has become an active user of all available steps of the dispute settlement mechanism of the World Trade Organization (WTO) more generally, has challenged both procedural and substantive aspects of the EU Antidumping Regulation, while it has also employed what may be perceived as 'tit for tat' or retaliation strategies and its increased bargaining power through diplomatic channels.

Against the backdrop of unprecedented over-capacity in Chinese heavy industries, notably in the steel sector, and an unabated surge in Chinese steel imports into the EU, in February 2016 new AD investigations into several steel products from China were launched.

For details of the methodology for 'Calculation of dumping margins', at the heart of all antidumping cases, see the EPRS publication by Laura Puccio, [PE 583.794](#).



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Background

In 2015, China again was by far the primary target of antidumping (AD) investigations initiated by the European Commission, with a total of [53](#) definitive AD measures in force against Chinese products by the end of that year. All six new AD probes launched in 2015 concerned China. Three AD cases involved the steel industry and two the chemical sector.

Table 1 – Major targets of definitive AD measures in force and new AD probes initiated in 2015

	China	Indonesia	Malaysia	Russia	India	Taiwan
Definitive AD measures	53	7	6	6	5	5
New AD investigations	6			1		1

Data source: [European Commission](#), November 2015.

AD duties imposed in past probes and expiring between 2016 and 2020 are [concentrated](#) among others in the bicycles, ceramics, chemicals, solar panels and steel sectors and concern industries with considerable employment levels. A review of some key AD cases in these sectors shows that, next to circumventing AD duties, Chinese exporters have filed complaints with the EU Courts to avoid non-market economy treatment, with the Chinese government actively using the WTO dispute settlement mechanism to challenge the EU Antidumping Regulation.

In February 2016, new AD investigations into several steel products from China were [launched](#) against the backdrop of huge [overcapacity](#) in China's heavy industries, reflected in drastically declining utilisation rates as shown in Figure 1 and an unabated [surge](#) in cheap Chinese steel imports into the EU.

China increased its share in world crude steel production from 25.6% in 2004 to [49.2%](#) in 2014 spurred by past stimulus packages, but now [faces](#) a dramatic slowdown in domestic demand and besides considering [supply-side reforms](#) it seeks foreign sales. The EU's share of world crude steel production fell from 19% in 2004 to 10.2% in 2014 as a result of industrial restructuring processes.

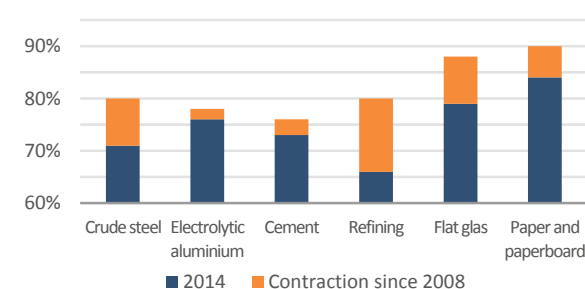
Bicycles and bicycle parts

The bicycles sector is an EU industry where AD duties on imports from China have been in place for more than two decades. In 1993 the Commission imposed [definitive](#) AD duties on Chinese bicycles based on a complaint [submitted](#) by the European Bicycle Manufacturers Association. Following anti-circumvention investigations, in 1997 AD duties were also imposed on Chinese bicycle [parts](#). In the past, the interest of EU producers in maintaining AD duties seems [not](#) to have been strongly opposed by importers.

A [2013](#) Commission interim review for the 2008-2011 period reveals that the EU bicycle industry has shifted from the complete production cycle to (partial) assembly operations relying partly on imported parts. The EU market has been shrinking, with sales and employment decreasing, while dumped Chinese imports have continued and the Chinese Giant Group, the world's biggest bicycle maker, has made inroads into the EU both in [legal](#) and [economic](#) terms.

In view of China's large spare capacity and [new](#) capacity building, the Commission expects the EU industry to be at risk of disappearance, if AD duties were terminated, as is [evidenced](#) by the [US](#) and [Japanese](#) markets where domestic bicycle production was almost completely replaced by imports of Chinese bicycles once AD duties were eliminated. The Commission estimates direct employment covered by the AD duties at [27 800](#). Current AD duties expire in [June 2018](#).

Figure 1 – Utilisation rates for six Chinese industries



Data source: [Overcapacity in China](#), European Chamber of Commerce, 2016.

Ceramic tiles and ceramic tableware and kitchenware

AD investigations into ceramic tiles from China were [initiated](#) in 2010 based on a complaint lodged by the European Ceramic Tiles Manufacturers' Federation. Since all injury indicators for the period examined showed a negative trend with a price differential of [50%](#) in 2009, [definitive](#) AD duties were imposed in 2011. While EU importers appear not to have lobbied against the AD duties, the China Ceramics Industry Association ([CCIA](#)) dismissed the AD duties as [trade protectionism](#). Given that China's share in EU imports was only 6.5% in 2010, with EU producers holding 88% some [critics](#) questioned the existence of dumping altogether, with [others](#) highlighting several shortcomings in the methodology of AD duty calculation. Pleas by [Chinese firms](#) and EU [importers](#) from both ceramic sectors to the EU Courts were rejected.

In the ceramic tableware sector, which has been more [divided](#) in its views on AD duties, investigations into Chinese imports were [launched](#) in 2012, and [definitive](#) AD duties imposed in 2013. Ceramie-Unie, the EU producers' association, stressed that from 2004 to 2011 without AD duties in place China's market share surged from [20%](#) to almost 70%, with a loss of 33 000 jobs. But the Foreign Trade Association ([FTA](#)), representing importers and [retailers](#), was firmly opposed to duties, due to the importance of Chinese imports of €730 million to the EU market valued at [€1.5 billion](#) in 2012, pointing to the expected price rises for distributors and consumers and the lack of alternative domestic supplies. The Chinese [side](#) denied any injury caused by under-priced exports. According to the Commission, direct employment covered amounts to [77 500](#) and 25 100 respectively. AD duties will expire in [September 2016](#) and [May 2018](#).

Footwear with leather uppers

Partly as a result of the phasing out in 2004 of global quotas under the Agreement on Textiles and Clothing ([ATC](#)), China's share of EU imports rose from [4.4%](#) in 2004 to [8.8%](#) in the first quarter of 2005. AD investigations were [initiated](#) in 2005 based on a complaint filed by the European Confederation of the Footwear Industry, with [definitive](#) measures entering into force in 2006. While small firms in Italy, Portugal and Spain, accounting for almost [70%](#) of production in 2006, which had not relocated and converted production to higher value added, lobbied for AD duties, large import-dependent firms were opposed, leaving EU Member States [divided](#) too. The footwear case was strongly [politicised](#), AD duties were comparatively low, imposed for two years with a 15-month extension, while five years is the norm, and several types of shoes were exempted from AD duties which expired in [March 2011](#) for lack of Member State support for their further extension.

The case's significance derives from its legal impact. In 2006 Chinese exporters [filed complaints](#) with the EU General Court challenging the Commission's obligation to examine individually claims for market economy treatment (MET) submitted by exporters from non-market economies. The Commission uses sampling to limit the probe to a reasonable number of exporters to calculate individual [dumping margins](#): On that basis it was assessing claims for MET only for the sampled firms, for which individual dumping margins were then calculated.

Under appeal ([C-247/10P](#) and [C-249/10P](#)) the non-sampled Chinese companies were [confirmed](#) in their right to an assessment of their MET claims under Article 2(7)(b) and(c) of Council [Regulation](#) No 1125/2009. The Court held that the Commission was obliged to assess MET claims for producers not included in the sample too. Those non-sampled firms found to comply with MET requirements would then be granted the same duty as sampled firms which had been granted MET, if an individual dumping margin could not be calculated for the non-sampled firms.

But instead of implementing the Court's view that an assessment of MET criteria must be carried out for all companies submitting MET claims, the [amended](#) basic Regulation requires MET assessment only for sampled firms. Non-sampled companies have to request an individual examination to be eligible for an individual dumping duty. In parallel China filed a WTO complaint against the EU challenging the EU Antidumping Regulation's criteria for requesting individual treatment. In 2011 the [DS405](#) panel [ruled](#) in favour of China, and required the EU to bring its legislation into line with WTO law. As a consequence the European Footwear [Alliance](#) and [individual](#) EU [importers](#) asked for compensation.

Iron and steel fasteners (such as bolts, nuts, and screws)

Investigations into Chinese iron and steel fasteners were [initiated](#) in 2007 based on a complaint lodged by the European Industrial Fasteners Institute. [Definitive measures](#) came into effect in 2009, with EU distributors against and some EU producers [sceptical](#) about their benefit. Chinese fastener associations [argued](#) that the Commission had failed to show injury, taking [issue](#) also with the individual treatment granted to the Chinese units of Italy's Agrati and Spain's Celo which were found to have a definitive dumping margin of 0%. Some Chinese [exporters filed complaints](#) with the General Court challenging their non-MET status, the choice of the analogue country and other issues, but their pleas were [rejected](#).

In response to the AD duties imposed by the Commission, in 2009 China initiated its first WTO complaint against the EU ([DS397](#)) over the methodology of calculating AD duties under Article 9(5) of the EU basic [Regulation](#). It argued that under WTO law individual treatment was to be granted to all sampled firms and cannot be conditional on compliance with criteria such as those of Article 9(5) of the Antidumping Regulation. In 2010, China imposed AD duties on imports of EU-made fasteners, with the EU in turn filing a WTO complaint against China ([DS407](#)) over China's methodology of calculating AD duties on EU-made fasteners.

While DS407 has remained at consultation stage, the DS397 [panel](#) in 2010 and the Appellate Body in 2011 ruled in favour of China. Although the EU [amended](#) its basic Regulation and [adjusted](#) its AD duties, China deemed the EU's compliance insufficient. Therefore a compliance panel was set up; its [report](#) was published in 2015 but was appealed by the EU. In January 2016 the Appellate Body [report](#) was issued, with China [urging](#) the EU to withdraw the 'illegal' AD duties and threatening that otherwise it reserves its rights to take further steps at the WTO.

A [2015](#) Commission expiry review shows that, by 2013, import volumes from China had decreased by more than 98% since 2007, with its market share at 0.5% down from 26%. The European Fastener Distributor Association ([EFDA](#)) stated that excessive AD duties had proven [dysfunctional](#), causing supply shortages of low-end fasteners. The Commission estimates direct employment concerned by the AD duties at [20 000](#). Current AD duties expire in [March 2020](#).

Solar panels

In 2012 the Commission [launched](#) investigations into Chinese photovoltaic panels based on a complaint filed by EU ProSun, a manufacturers' association. [Definitive](#) measures were imposed in 2013 on Chinese imports, worth [€21 billion](#) in 2011. The case [revealed](#) conflicts of interest between EU solar panel manufacturers and operators, represented by the Alliance for Affordable Solar Energy, which was against AD duties, arguing that they cause job [losses](#) and that cheap Chinese imports make solar energy more [affordable](#) and are thus crucial for achieving EU targets.

It also exposed a divided EU vulnerable to China's '[tit for tat](#)' strategies of imposing or threatening to impose AD duties on EU exports (polysilicon and wine that time) to China in return. Although a minimum price [undertaking](#) offered by the Chinese firms represented by the Chinese Chamber of Commerce [settled](#) the dispute outside the WTO, [circumvention](#) and [violations](#) continue to undermine it. Direct employment covered by the AD duties is estimated at [25 100](#). AD duties expired in [December 2015](#) but are currently under expiry review.

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