HERBERT SMITH FREEHILLS

EU ANTI-DUMPING

LEGAL GUIDE
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CONTENTS

CONTENTS

A LEGAL GUIDE TO EU ANTI-DUMPING

INTRODUCTION

This guide provides an overview of EU anti-dumping law and practice. The main rules pertaining to EU anti-dumping law are laid down in Regulation 2016/1036 (see link). These rules are explicitly based on and must be consistent with those contained in the WTO Anti-Dumping Agreement (see link). Under EU law, anti-dumping measures may be imposed only if:

(1) Imports into the EU are found to be *dumped*;

(2) The dumped imports have caused or threaten to cause *injury* to the relevant Union industry; and

(3) The imposition of anti-dumping measures would not be against the *Union interest*.

(4) In reaching the above findings, the EU authorities must observe applicable procedural requirements, including the due process rights of interested parties.

The first three sections below provide an overview of EU rules and practice with respect to dumping, injury and the Union interest assessments. The fourth section provides a practical overview of EU anti-dumping procedures.

DUMPING

Anti-dumping measures may be imposed only if a product is found to be dumped. A product is considered dumped when its export price is less than the normal value of the same or like product not sold for export to the EU.

Calculating normal value

Normal value in market economy countries may be calculated in one or more of the following ways:

(1) On the basis of domestic sales prices of the exporting producer;

(2) On the basis of prices of other exporters or producers in the same country;

(3) On the basis of export prices to a third country; or

(4) By constructing a normal value based on the costs of production plus a reasonable amount to cover selling, general and administrative costs and profit.

The primary basis for determining normal value is the first option, namely, domestic sales prices. The EU authorities will resort to one of the other three bases only if, *inter alia*, domestic sales are not representative or if they are not in the ordinary course of trade.

The questions of representativeness and whether domestic sales are in the ordinary course of trade are discussed further below. Special rules applicable to goods produced in non-market economies are also discussed.

Global representativeness

When determining what basis for normal value should be used, the EU authorities will first analyse whether the total volume of domestic sales of the like product to independent customers is representative, ie whether the total volume of such sales represents at least 5% of the total volume of the corresponding export sales to the EU.

Where the domestic sales volume of the like product is not at least 5% of the corresponding export sales to the EU, normal value may be established on the basis of prices of other exporters or producers or be constructed (options (2) and (4) above). More often than not, the price is constructed. Calculation of normal value based on third country export prices (option (3) above) is rarely used in the EU.

Product type representativeness

If the total volume of domestic sales is considered representative, the EU authorities will seek to determine representativeness on a product type basis. In this determination, the EU authorities will assess whether the volume of a product type sold on the domestic market to independent customers during a certain period represents 5% or more of the total volume of a comparable product type sold for export to the EU.

Where there are no representative sales for a product type, the EU authorities will seek to establish normal value using the prices of other exporters and producers or by resorting to constructed normal value (options (2) and (4) above). As mentioned, more often than not, constructed normal value is used.

Ordinary course of trade

For product types where initial analysis shows that domestic sales volume is representative, the EU authorities will examine whether those domestic sales can be considered to be in the ordinary course of trade. If one or more sales transactions are not considered to be in the ordinary course of trade, they will be excluded from the normal value calculation. This is the case, for instance, where the sales are loss making, are made between related parties or are otherwise not comparable. Exclusion of such sales prices can also trigger recourse to constructed normal value if the remaining domestic sales volume is not considered representative.

Non-market economies

If a good originates from a non-market economy country, normal value will not be determined with respect to the rules discussed above (ie primarily on the basis of domestic sales prices if they are representative and in the ordinary course of trade). Instead, normal value will usually be determined on the basis of the price or costs in an "analogue" market-economy third country (eg Australia). If this is not possible, normal value may be determined on any other reasonable basis, including the price actually paid or payable in the EU for the like product. Countries which are considered to be non-market economies include: Albania, Armenia, Azerbaijan, Belarus, China, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, North Korea, Tajikistan, Turkmenistan, Uzbekistan and Vietnam. In practice, the use of the non-market economy normal value methodology leads to higher anti-dumping duties. However, if exporting producers are able to persuade the EU authorities to use a market economy "analogue" third country with similar costs of production for the normal value calculation, the outcome of the anti-dumping investigation is generally more favourable to the exporting producers concerned.

EU law allows exporting producers from China, Vietnam, Kazakhstan and any other WTO non-market economy country to request "market economy treatment" or "MET". If successful, their normal value is primarily based on their own domestic prices and not third country prices. Market economy treatment is granted when the following five criteria are met:

(1) Decisions of the firm regarding prices, costs and inputs are made in response to market signals reflecting supply and demand, and without significant state interference, and costs of major inputs substantially reflects market values;

(2) The firm has one clear set of basic accounting records which are independently audited in line with the international accounting standards and are applied for all purposes;

(3) The production costs and financial situation of the firm is not subject to significant distortion carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter-trade and payments via compensation of debts;

(4) The firm concerned is subject to bankruptcy and to property laws which guarantee legal certainty and stability for the operation of firms; and

(5) Exchange rate of conversions are carried out at the market rate.

Exporting producers granted MET almost always receive a substantially lower dumping margin than those not granted MET. Obtaining such "market economy" status can therefore result in a very significant competitive advantage.

Calculating export price

Export prices are generally calculated using actual price data. Adjustments are, however, frequently necessary where, for example, the EU importer is associated with the exporting producer or there is some other form of compensatory arrangement so that the export price paid or used for accounting purposes appears unreliable. In such a case, the export price is constructed on the basis of the price at which the products are first resold to an independent buyer, which is then adjusted so as to result in an "at Union frontier" price.

Comparing normal value and export prices

Once normal value and export price are determined, they must be compared with each other. In other words, it must be determined whether the export price is less than the normal value (ie whether dumping has occurred).

For the purpose of determining whether dumping has occurred, the EU authorities have traditionally compared prices on an ex-works basis (ie excluding any costs after a product leaves the factory) and exclusive of any indirect taxes. Therefore, in practice, numerous adjustments must be made to sales prices before they can be compared. These include deducting amounts associated with shipping and other after sales costs. Adjustments to normal value and export prices will also be made to take into account differences in levels of trade (eg wholesaler versus retailer), differences in product characteristics, and any other factors that may affect price comparability.

Calculating the dumping margin

Once the normal value and export prices have been adjusted and are deemed comparable, the dumping margin may be calculated. The dumping margin will be calculated by taking into account normal value and export prices over a period of time. This period is normally six months to one year and ends close to the date of initiation of the investigation.

Methodologies

Under EU law, the dumping margin may be calculated in one of three ways:

(1) Weighted-average to weighted-average method;

(2) Individual transaction to individual transaction method; or

(3) Weighted-average to individual transaction method.

The EU authorities will generally use the first method. Using this method, the weighted-average price of all export transactions to the EU during an investigation period is compared with a weighted average normal value during the same period. The resulting amount is expressed as a percentage of the CIF export price to reach a dumping margin. A simplified example is provided below.

Weighted-average ("WA") dumping margin calculation example

WA normal value (50 EUR)

WA export price (45 EUR)

CIF price (50 EUR)

Dumping margin equals ((50-45)/50)*100 = 10%

Option (2), the individual transaction to individual transaction method, is rarely used because it involves determining a corresponding normal value for each export transaction and therefore is difficult to apply in most circumstances.

Option (3), the weighted-average to individual transaction method, will only be used if there is a pattern of export prices which differs significantly amongst different purchasers, regions or time periods.

INJURY

The EU authorities may impose anti-dumping measures only if dumped imports have caused injury to the Union industry. Injury includes (i) present material injury to the Union industry; (ii) threat of material injury to the Union industry; and (iii) material retardation of the establishment of a Union industry. Most EU anti-dumping investigations have concerned present material injury, although many have dealt with threat of material injury. Few EU anti-dumping investigations have, to date, concerned material retardation.

The Union industry

Injury must be caused to the Union industry. Therefore, it is important to identify the producer or producers that will be examined for the purposes of the injury assessment, ie those considered to be "the Union industry". EU law defines the Union industry as the Union producers of products "like" the allegedly dumped product or any group of them whose collective output constitutes more than 25% of total EU production of the like product. If Union producers are related to exporting producers or importers, or are themselves importers of the allegedly dumped product, they may be excluded from the definition of the Union industry. In addition, Union producers may be excluded from the definition of the Union industry if the anti-dumping investigation concerns only a particular region of the EU.

Material injury

When determining whether present material injury exists, the EU authorities will first examine the volume of dumped imports and the effect of the dumped imports on prices in the EU market for like products. For this determination, the EU

authorities will analyse the volume and prices of imports over time (normally four years) and assess whether there has been significant price undercutting by the dumped product as compared to the like Union industry product. In some cases, the EU authorities will also analyse whether the effect of the dumped imports is to depress Union industry prices or prevent Union industry price increases, which would have otherwise occurred.

As a second step in the material injury determination, the EU authorities will investigate the specific situation of the Union industry, analysing trends over time. In assessing the situation of the Union industry, the EU authorities will analyse numerous factors including production, capacity utilisation, productivity, domestic sales volume and prices, market share, export volume and prices, profitability and employment.

Threat of material injury

In making a threat of injury determination, the EU authorities must give consideration to factors such as the following:

(1) Whether there is a significant rate of increase of dumped imports into the EU market indicating the likelihood of substantially increased importation;

(2) Whether there is a sufficiently freely disposable, or an imminent, substantial increase in, capacity of the exporting producer(s) indicating the likelihood of substantially increased dumped exports to the EU market;

(3) Whether imports are entering at prices that will have a significant depressing or suppressing effect on Union industry prices, and would likely increase demand for further imports; and

(4) Whether inventories of the product being investigated suggest that imports could increase in the future.

Causation

If there is a finding of injury to the Union industry, as a final step, the EU authorities will seek to determine whether the injury was or will likely be caused by dumped imports. When making this determination, the EU authorities will first seek to ascertain whether there is a coincidence between the price/volume of dumped imports and any deteriorating situation of the Union industry. Second, the EU authorities will seek to determine if there are other known factors which are causing or threaten to cause injury to the Union industry. Such factors may include, inter alia, (i) restrictive trade practices within the EU; (ii) imports from other countries; (iii) relocation of production outside the EU; or (iv) insufficient productivity of the Union industry.

Injury margin

When assessing injury, the EU authorities will generally calculate an injury margin for each exporter. Although EU rules do not mandate any particular methodology for the injury margin calculation, the EU authorities most often apply a formula which compares a Union producer selling price with sales prices of dumped imports into the EU. The resulting injury is expressed as a percentage of the CIF Union frontier price in order to obtain an injury margin.

As when calculating the dumping margin, before comparing the Union producer price with the selling price of the dumped imports, the EU

authorities will make numerous adjustments in order to ensure that the prices are comparable. Thus, for example, customs duties will be added to the CIF price and differences in levels of trade and/or physical characteristics will be taken into account.

The injury margin calculation is important since it can affect the level of any duties finally imposed. In general, anti-dumping duties correspond to the dumping margin found. However, if the injury margin is lower than the dumping margin, the EU authorities will set the level of the anti-dumping duty at the level of the injury margin. Exporting producers and other interested parties that oppose anti-dumping duties therefore have a strong interest in seeking to make the relevant export price used in the injury margin calculation as high as possible while at the same time seeking to ensure that the relevant Union producer price is as low as possible.

UNION INTEREST

If there is a finding of dumping and injury caused by dumped imports, anti-dumping measures may not be imposed if the EU authorities find that doing so is clearly not in the Union interest. When making this determination, the interests of the Union industry, importers/users and consumers will be taken into account. In several EU investigations, anti-dumping measures have either not been imposed or been terminated based on a finding that their imposition/continuation would have been against the Union interest – for example, because anti-dumping measures would have unduly increased prices for consumers or lead to shortages of supply for users.

EU ANTI-DUMPING PROCEDURE

Pre-initiation and initiation

In the EU, most new anti-dumping investigations are initiated on the basis of a complaint from Union producers. These complaints must contain evidence of injurious dumping. The EU authorities also require a showing of a Union interest. Once a complaint is received, the EU authorities have 45 days to accept or reject it. In that period, it will examine the content of the complaint and consult with the so-called Anti-Dumping Committee which is made up of the 28 EU Member State representatives.

If the EU authorities consider that the complaint is sufficiently substantiated, they will initiate an investigation and publish a notice in the *Official Journal of the European Union.* Prior to initiating the investigation, it will notify the relevant governments of the country of origin of the allegedly dumped goods.

A new investigation will not be initiated if, *inter alia*, (i) there is insufficient evidence of dumping and/or injury caused by dumping; (ii) the level of dumped imports is *de minimis* (eg if the EU market share of the dumped imports is less than 1%); or (iii) the complaint is not made by or on behalf of the Union industry. As regards the latter case, a complaint is made by or on behalf of the Union industry when:

(1) It is supported by those Union producers whose collective output constitutes more than 50% of the total production of the like product produced by that portion of the Union industry expressing either support for or opposition to the complaint; and

(2) Union producers expressly supporting the complaint represent more than 25% of the total production of the like product produced by the Union industry.

Submission of information to the EU authorities

When the EU authorities publish the notice of initiation of an anti-dumping investigation, they will provide basic information about the scope of the investigation (eg the allegedly dumped product) and request information from interested parties. Generally, there are very short deadlines for the submission of the requested information. Although deadlines can sometimes be extended, most information initially requested must be submitted within 40 days or less.

For exporting producers especially, providing the type and scope of information requested by the EU authorities can be very burdensome. Nevertheless, it is in their interest to cooperate. Exporting producers that cooperate often receive a much lower duty than those that do not. For example, in an investigation concerning candles, numerous cooperating producers received a zero duty while non-cooperating producers were subject to an anti-dumping duty of 549.33 EUR per tonne. As a result, cooperation can provide a significant competitive advantage.

The information which must be submitted shortly after the initiation of an anti-dumping investigation is briefly discussed below.

Sampling information and questionnaire responses

When an investigation is initiated, the EU authorities will request detailed information from interested parties primarily related to prices and costs associated with the allegedly dumped product. This information is used for the dumping and injury calculations. Parties are normally given 40 days to reply and an extension of up to 14 days is sometimes available.

If the EU authorities consider that the number of potential cooperating exporting producers, Union producers and/or importers/users is too large to individually analyse all of their information within the 15 months they have to complete an investigation, they will not immediately request detailed questionnaire responses. Instead, in the notice of initiation, the EU authorities will request more limited "sampling" information. For example, with respect to exporting producers, information pertaining to the identity/contact details, turnover and sales volume, activities of the company is usually requested. In addition, companies are invited to provide other information which they consider useful to assist the EU authorities in the selection of the sample.

Sampling information must generally be submitted within 15 days of the date of publication of the notice of initiation.

The sampling information received is then used to choose a limited amount of exporting producers, Union producers and/or importers/users that will be required to fill out the more detailed questionnaire. The EU authorities normally choose the companies with the largest representative volume of production, sales or exports to be included in the sample.

Analogue country comments

If an investigation concerns a non-market economy, the EU authorities will indicate in the notice of initiation how it envisages establishing normal value. Normally, this will be based on prices in an analogue country (eg Australia) or, if necessary, on prices in the EU. Interested parties, including exporting producers from non-market economy countries, will typically have 10 days to comment on this issue.

Since normal value is based on prices and/or costs in an analogue country, the choice of the analogue third country can have a significant impact on the outcome of an anti-dumping investigation. Needless to say, it is therefore in the interest of exporting producers to persuade the Commission to use prices and/or costs in third countries with relatively low costs of production.

Other information

In the notice of initiation, the EU authorities will also request parties to provide any other information, comment on the Union interest and request a hearing. Comments on the Union interest are usually requested within 37 days of the publication of the notice.

Investigation

Following the submission of questionnaire responses and other information by interested parties, including exporting producers, Union producers and importers/users, the EU authorities will begin to analyse the information received. They may also ask for supplementary/additional information. As part of the investigation process, the EU authorities will conduct on-site visits for the purpose of verifying information provided by companies in their questionnaire responses. These verifications typically take from three to five days, but may take longer depending on the complexity of the case at hand.

Parallel to the EU authorities' investigation, interested parties are given a right to inspect non-confidential versions of information submitted by other interested parties. Such information includes questionnaire responses, comments on dumping, injury and other matters.

During the investigation stage, the EU authorities will also schedule time for hearings so that interested parties may present their views orally. Hearings are generally *ex parte*, ie between the party concerned (eg an exporting producer and the EU authorities). Importers, exporters, representatives of the government of the exporting country and Union industry complainants may also request to meet parties with adverse interests in a so-called "confrontation meeting". In the latter case, participation is not mandatory.

Provisional anti-dumping measures

Provisional anti-dumping measures may be imposed at any time between 60 days and 9 months after initiation of the anti-dumping investigation. In practice, these are generally imposed only once the EU authorities have conducted on-site verifications.

In order to impose provisional anti-dumping measures, the EU authorities must have reached a provisional determination of injurious dumping. They must also have concluded that (i) the Union interest calls for intervention, (ii) the investigation was properly initiated, and (iii) interested parties have been given an adequate opportunity to make their views known and to submit information.

Disclosure of findings

Interested parties may request in writing the disclosure of the underlying essential facts and considerations on the basis of which provisional measures are imposed (if any). Disclosure is normally provided in writing shortly following the publication of the decision to impose provisional anti-dumping measures.

Interested parties are also entitled to request disclosure of the essential facts and considerations and the basis on which the EU authorities intend to recommend the imposition of definitive anti-dumping measures, or the termination of an investigation without the imposition of measures. Disclosure is in writing and is normally made at least one month before the EU authorities begin the formal process of proposing either termination of the investigation without measures or the imposition of definitive measures. Interested parties may respond to such final disclosures only within a short period (ie generally 10 days).

Outcomes

In general, an anti-dumping investigation can have one of two outcomes: either anti-dumping measures are imposed or not. These outcomes are discussed further below.

Termination of the investigation without anti-dumping measures

The investigation will be terminated and anti-dumping measures will not be imposed if there is a finding of no dumping, no injury caused by dumping or that anti-dumping measures would be against the Union interest. Investigations will also be terminated if the dumping margin or volume of imports is *de minimis* or if the original complaint has been withdrawn (unless the EU authorities decide to pursue the investigation after withdrawal of the complaint).

Definitive anti-dumping duties

Definitive anti-dumping duties will be imposed if there is a finding of injurious dumping and the Union interest calls for intervention. The EU authorities are entrusted with imposing anti-dumping duties. However, a decision to impose definitive anti-dumping duties can be blocked by the Trade Defence Instruments Committee if a qualified majority of its members deliver an opinion against the decision. The Trade Defence Instruments Committee consists of one representative from each of the 28 EU Member States and is chaired by the European Commission.

Under EU law, anti-dumping duties are set at the lower of the dumping or injury margin. Duties are normally imposed for five years, although they have been exceptionally imposed for one or two years in recent cases. If a provisional duty has been imposed, the EU authorities will decide whether to collect the provisional duty fully or partially, which happens in almost all cases. In exceptional cases, definitive anti-dumping duties may also be collected up to 90 days before the application of provisional duties.

Undertakings

Exporting producers may offer so-called undertakings to the EU authorities once there has been a provisional determination of injurious dumping. Normally, undertakings may not be offered following the end of the period to comment on the final disclosure. Undertakings are offers submitted by exporting producers to revise export prices or to cease exports at dumped prices in a manner which would eliminate the injurious effect of dumping.

Where undertakings are accepted, any provisional or final anti-dumping duties do not apply to imports of the product covered by the undertaking. The advantage of price undertakings for exporters is that they can keep the additional income resulting from the price increase, whereas anti-dumping duties are paid to the EU.

Undertakings are generally negotiated and concluded on an *ad hoc* basis between individual exporting producers and the EU authorities. However, in a recent investigation, the EU authorities negotiated and concluded an undertaking with the representative federation of the exporting producers concerned. The Court of Justice of the EU is currently assessing whether such undertaking complies with EU law, and, in particular, EU antitrust rules.

Reviews

Once anti-dumping measures have been imposed, EU law provides for a number of review possibilities, including: (1) interim reviews; (2) new shipper reviews; (3) anti-absorption reviews; and (4) expiry reviews.

Interim reviews

Interim reviews are primarily initiated to determine whether dumping and/or injury has increased or decreased. Interim reviews may also be initiated to re-examine the Union interest assessment, product scope and other matters concerning the need for the continued imposition of anti-dumping measures. Interim reviews may be initiated by the EU authorities or at the request of a Member State, exporting producer, importer or Union producer. Requests for review from exporting producers, importers or Union producers may only be accepted if at least one year has elapsed since the imposition of the anti-dumping measures.

New shipper reviews

Exporting producers that did not ship to the EU during the period covered by the original investigation are automatically subject to the residual (and often the highest) anti-dumping duty. Therefore, EU rules provide the opportunity for these exporting producers to request a review and be granted an individual dumping margin if definitive anti-dumping measures are imposed.

Anti-absorption reviews

If, following the imposition of anti-dumping measures, prices of the dumped product decline, remain the same or do not sufficiently increase, an anti-absorption proceeding may be initiated. It may be initiated following a request from a Member State or other interested parties or at the initiative of the EU authorities. In an anti-absorption investigation, the EU authorities will analyse whether the anti-dumping measure should have led to movements in prices in order to remove injury. If there is a positive determination in this regard and injury remains due to lower export prices than in the original investigation, the dumping margins will be recalculated on the basis of the most recent export prices and the anti-dumping measures amended accordingly.

Expiry reviews

Anti-dumping measures normally expire five years from the date of their imposition or from the date of the most recent review that covered dumping and injury. However, they will not automatically expire if an expiry review is requested and initiated. Expiry reviews may be requested by Union industry producers up until

three months before the expiration of anti-dumping measures. They may also be initiated by the EU authorities *ex officio*. If a review is initiated, anti-dumping measures will normally be extended for an additional five years if it is definitely determined that (i) dumping and injury would continue or recur if anti-dumping measures expire; and (ii) continued anti-dumping measures would not be against the Union interest.

Circumvention investigations

Following the initiation of an anti-circumvention investigation, anti-dumping measures may be extended to imports from third countries or other products from the same country subject to anti-dumping measures if (i) there is evidence of circumvention; (ii) there is evidence that the remedial effects of the duties are being undermined; and (iii) there is evidence of dumping in relation to the normal values previously established. Circumvention is defined as a change in the pattern of trade between a third country and/or an exporting producer and the EU, which is done for the purpose of evading or circumventing an anti-dumping measure. Most cases of circumvention involve relocation of assembly of a product to a third country following the imposition of anti-dumping measures. Circumvention may also involve transhipment, rechannelling sales through producers or exporters with low duties and an alteration of the product exported to the EU. Investigations may be initiated on the initiative of the EU authorities, or at the request of a Member State or any interested party.

Appealing anti-dumping measures

Anti-dumping determinations can be challenged before the European Courts, either directly or in the context of a reference from an EU Member State national court. Recently, a number of anti-dumping measures have been annulled by the European Courts, leading, in most cases, to the reimbursement of the duties paid.

ABOUT HERBERT SMITH FREEHILLS

Herbert Smith Freehills is a leading international law firm. The key to our success is our commitment to quality – the quality of our services, our people and the environment we create for them.

ABOUT US

As one of the world's leading law firms, we advise many of the biggest and most ambitious organisations across all major regions of the globe. Our clients trust us with their most important transactions, disputes and projects because of our ability to cut through complexity and mitigate risk.

We can help you thrive in the global economy. With 26 offices spanning Asia, Australia, Europe, the Middle East and the US, we can deliver whatever expertise you need, wherever you need it.

Our competition, regulation and trade group has extensive experience in advising clients on all legal aspects of barriers to trade and investment in world markets, including market access strategy, the protection of international investments, WTO law concerning trade in goods and services, WTO dispute settlement, WTO/EU anti-dumping and anti-subsidy law, customs law, export controls and sanctions, and trade related aspects of intellectual property rights.

We have unparalleled expertise in successfully challenging EU measures before the EU Courts in Luxembourg; we are regularly involved in cutting edge litigation and have a reputation for achieving landmark victories.

OUR EU TRADE REMEDY EXPERIENCE

Our team has extensive experience advising on trade remedy cases for a vast array of international clients, spanning a wide variety of industries.

We have represented clients in a number of EU trade remedy proceedings, including the following:

- **biodiesel** originating in the United States
- **bioethanol** originating in the United States
- **wireless modems** originating in China
- **leather footwear** originating in China and Vietnam
- **polyester staple fibres** originating in China, Korea, India, Saudi Arabia and Taiwan
- **non-malleable cast iron** from China
- **granular PTFE** originating in China
- **leather handbags** originating in China
- **fluorspar** originating in China
- **citrus fruits** originating in China
- **recordable compact discs** originating in China, Hong Kong, India, Malaysia and Taiwan
- **recordable versatile digital discs** originating in China, Hong Kong and Taiwan
- **footwear with textile uppers** originating in China and Indonesia
- **footwear with uppers of leather or plastics** originating in China, Indonesia and Thailand
- **cokes** originating in China
- **cast iron manhole tops** originating in China
- **deadburned magnesia** originating in China
- **stainless steel fasteners** originating in Malaysia
- **welded tubes and pipes** from Belarus, Bosnia and Herzegovina, China, Czech Republic, Poland, Russia, Thailand, Turkey and Ukraine
- **PET film** from India
- **broad spectrum antibiotics** from India

OUR TEAM

Lode Van Den Hende
Partner, Brussels

Lode was among the very first private lawyers who was allowed to appear in a WTO dispute settlement hearing and has considerable litigation experience in the EU courts. He has unique experience in arguing high profile WTO, international trade and trade remedy related cases before the European Courts and in the WTO. He acted for Ecuador in its landmark WTO case on suspending the protection of EU owned intellectual property rights by way of sanction for the EU's continued nonimplementation of the WTO decisions in the dispute over the importation of bananas. He also acted for the Government of Antigua and Barbuda in its successful claim against the US concerning market access for electronic gambling and betting services.

Jennifer Paterson
Senior associate, Brussels

Jennifer has practised EU and international trade law since 2005. She has extensive experience in a wide range of trade matters, including customs compliance, antidumping and WTO proceedings. Jennifer has advised governments in WTO disputes (eg, concerning customs matters, subsidies, export restrictions and financial services) and has been involved in several cases before the European courts. She has represented clients in numerous trade remedy cases before the European Commission (most recently in those concerning bioethanol, wireless modems and biodiesel).

Jérémie Charles
Associate, Brussels

Jérémie specialises in EU law and WTO law, with specific expertise in trade and regulatory law. He has experience representing multinational companies, trade associations and Governments in proceedings before the European Commission, the Court of Justice of the European Union and the WTO Dispute Settlement Body. He also routinely advises clients on issues pertaining to various fields of EU law. Prior to joining Herbert Smith Freehills, Jérémie worked with the Trade and Regulatory practice of another international law firm (both in Brussels and Washington, D.C) and, before that, with the French Delegation to the WTO in Geneva.

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