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**CEC POSITION PAPER
ON THE PURPOSE AND IMPACT OF ANTI- DUMPING
MEASURES
AGAINST IMPORTS OF FOOTWEAR FROM CHINA AND
VIETNAM**

The objective of the present document is to clarify the purpose and impact of anti-dumping measures to all the stakeholders in the 499 anti-dumping procedure on certain footwear from China and Vietnam and to express the position of the European Confederation of the Footwear Industry (CEC) in this matter. This document is additional to previously released position papers and is specifically drafted to renounce some false or misconceived arguments by opponents on the possible consequences of measures, as they were presented to the EC and Member states authorities and/or distributed in the press. It is particularly important for CEC to stress the overhaul Community interest for the adoption of appropriate anti-dumping measures and the necessity to include all relevant products in the scope of the measures as well as to express its opinion on the form of measures that would be most appropriate to provide proper remedy.

1. *Anti-dumping measures are in the overhaul interest of the Community and will not create negative effects such as increased prices, reduced employment or reduced choice for the consumer*

From the arguments of the opponents to anti-dumping measures, it is clear that their aim is to create a doom scenario of negative effects for consumers, employment and the Community as a whole, which would be caused by measures favouring only a dead industry which has not been able to anticipate the challenges of a global economy. CEC renounces this false picture as well as the negative impacts and stresses the need to place facts into their real context and perspective.

1.1. Price increases are unlikely as a result of anti-dumping measures

First of all, there is the argument that duties would only result in increased prices for the consumer. Such reasoning is however flawed if we take a look at the situation since the abolishment of the quotas. Since then, we have been able to witness a decrease in import prices with 25 percent, while at the same time the actual sales prices have remained relatively stable. Logically, this means that even if this price decrease would reflect the profit of comparative advantages (which we have strong doubts about due to the obvious existence of dumping) this profit has not been shared with the European consumer but has been exclusively enjoyed by the importers. They have used the extra income either to finance large-scale publicity campaigns and/or to increase their profits, but have certainly not allowed the consumer to benefit from this situation through lower prices. The imposition of anti-dumping duties is therefore not likely to cause an increase in consumer prices, but rather a decrease in the profit margin of importers from Chinese and Vietnamese footwear.

1.2. The logistics and distribution operators provide services for the whole sector and will therefore not suffer losses

Secondly, opponents argue that anti-dumping measures will provoke severe losses in employment in the distribution and logistics sector, especially with regard to the import and retail of sports footwear. However, it is unlikely that due to the measures, the European consumer will buy fewer sports footwear, especially when price increases cannot be expected. The consumer might under such circumstances indeed buy sports shoes from other manufacturers, and it is this situation opponents are afraid of. On top of that, the people working in distribution and logistics are in general not only working for Chinese and Vietnamese importers, but for the whole footwear sector. Therefore, potential reductions in imports from those countries will be balanced by domestic production or imports from other countries, which also have to make use of distribution and logistic services.



A similar argument can be brought forward with relation to the effects for the choice for the consumer. CEC is convinced that the choice will not be reduced, since on the one hand anti-dumping measures do not impose quantitative restrictions to imports and on the other hand importers from Chinese and Vietnamese footwear will still have a reasonable profit margin, disregard the burden of the anti-dumping measures. Furthermore, other producers will under the restored conditions of fair and equitable competition also have better opportunities to sell their product on the market, which implies an increased choice for the consumer.

1.3. Measures have first and foremost to be taken in protection of the Community industry at the production level

Taken into account the need to keep a viable Community production and to protect the employment in the Community footwear sector on a production level, the advantages for the consumer and the re-establishment of fair and effective competition, it is clear that the overhaul interest of the Community requires the adoption of anti-dumping measures. This in accordance with Article 21 of the EC Anti-dumping Regulation, which explicitly refers to these factors as constituting the main underlying reasons for measures in terms of Community interest.

2. Anti-dumping measures are based on an objective anti-dumping investigation and are only adopted to restore fair competition between domestic and foreign production

From the debate concerning the adoption of anti-dumping measures, it is clear that opponents focus on the argument of unjustified grounds for anti-dumping measures and the fact that these measures would constitute an inappropriate remedy. In that context, they often refer to the issue of textiles, where problems in supply were caused by EC quota restrictions, and try to create the image that the same will happen in the footwear sector if measures will be applied. However, two important remarks should be made in that respect: first of all, one should not forget that anti-dumping measures are not based on a discretionary decision but are the result of an objective anti-dumping investigation and adopted after a determination of unfair conditions of competition. Secondly, the measures taken with regard to textiles are of a different nature than anti-dumping measures and taken in a very different context and should therefore not be regarded as a reference for the footwear case.

2.1. Anti-dumping measures are adopted with a legitimate objective and after objective findings of dumping and injury

In their discourse, opponents ignore the fact that in the course of the investigation, the Commission has to determine the existence of dumping and the injury suffered by the Community industry and that measures will only be taken in case both dumping and injury are objectively found. These determinations are based on objective analysis. Furthermore, the measures are taken to eliminate the injury and only to an extent that they are necessary to do so (the lesser duty rule). In other words, measures will only be taken in cases and to an extent justified by legitimate purposes.

What is more, it is exactly this objective approach that actually forces the Community to act. Opponents regularly argue that adopting measures would be a bad signal, provoking complaints in other sectors and thus jeopardising external trade, especially with China. CEC on the contrary sees the present footwear case as an opportunity for the European authorities to prove that its anti-dumping legislation equally applies to all. They have to show that they do not back down for the pressure of particular powerful interest groups and that they



are not prepared to abandon certain Community industries as a bargain chip in the trade relations with powerful economies such as China. By acting otherwise, the Community would only give the Chinese the impression that they can act illegally thanks to its enormous trade potential. Only this would count as a bad signal and it would mean a setback for China's integration into the world economy.

2.2. The comparison with the textile case is misleading

With regard to the comparison with the textile issue, it should be marked that the measures concerned quantitative restrictions, which is actually not a possible in the context of anti-dumping. The fact that the measures were not adopted in an anti-dumping context also means that they were not the result of a specific investigation, such as in anti-dumping. Thus, the purpose was also different in the sense that the measure was not aimed at providing a remedy for dumping and injury. A comparison with the textile issue is therefore misleading.

3. It is necessary to include sports footwear and so-called STAF in the product scope of the investigation

As the anti-dumping measures are based on the results of an objective investigation, it is important that the product scope is defined as accurately as possible in conformity with the applicable criteria. Opponents press for the exclusion of sports shoes and in particular shoes defined as so-called STAF (special technology athletic footwear) from the scope of the investigation. They ignore however the fact that the Community industry does produce shoes designed and used for sporting activities, which have the same main physical and technical characteristics as sports shoes imported from China and Vietnam. Therefore, sports shoes in general should be included in the scope of the investigation and be subjected to anti-dumping measures.

As far as STAF is concerned, it should be noted that their essential characteristics, uses and consumer perception thereof is basically equal to sports shoes in general and by extension also to city trotters and different types of casual footwear. This is mainly due to the evolution in fashion trends, which has increased the level of inter-changeability between these types of footwear. This trend is by the way explicitly recognised by opponents. As the European Court of First Instance ruled in an important anti-dumping case on bicycles, it is this trend of multi-purpose use by the consumer that can eliminate the relevance of distinctions between categories for anti-dumping purposes. For exactly this aspect of direct competition between the aforementioned types of shoes, which CEC is able to demonstrate, STAF should be considered as a like product and be included in the scope of the procedure. Previous exclusions of STAF have to be regarded as not relevant, since they either have been applied in a different context (implementation of quota) or they have become obsolete due to the aforementioned developments in use and consumer perception (see our previous position paper of 25 October 2005).

4. Ad valorem duties must be considered as the most appropriate measures

Finally, the form of the measures is an important issue for CEC. The EC Anti-dumping Regulation clearly defines the specific types of measures that can be taken in anti-dumping cases. The following alternatives are possible: an *ad valorem* duty, a duty based on a minimum price, a fixed duty per unit, a combination of the foregoing and the Community authorities can also accept undertakings to raise the import price to a minimum level.



Taken into account that it does not concern 100 percent homogeneous products due to design, used materials etc. and the need to limit the possibilities for circumvention, CEC considers an *ad valorem* duty applicable to all products as the most appropriate form of anti-dumping measures for the present case. The difficulty to distinguish by a simple look from the outside the kind of materials and/or techniques that were used makes it also appropriate to apply a single and uniform regime towards all products subject to investigation. Furthermore, it should be emphasised that, in conformity with the rules and principles of Community anti-dumping legislation, the level of the duty should be high enough to offer an effective remedy for the dumping and injury.

