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CEC Position paper on the need of anti-dumping measures against imports from China and Vietnam

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1. Executive summary

The European Confederation of the Footwear Industry (CEC) has filed a complaint against the import of certain footwear with uppers of leather from China and Vietnam based on the ground that these imports cause injury to the Community industry. This means that those products are imported at prices which are below the prices paid or payable on the domestic market. The figures in the complaint have demonstrated severe losses for the Community industry on some essential injury factors such as employment, market share, sales prices, production volume and profit margins during the investigation period. The Commission has accepted CEC's request and has initiated an anti-dumping procedure, which means that there was *prima facie* sufficient evidence of dumping in the sense of Article 5(9) of the Basic Regulation.

2. Measures proposed by Commissioner Mandelson on the 23rd of February 2006

In a press briefing by Commissioner Mandelson of 23 February 2006, the announcement was made that the Commission is intending to adopt provisional measures in the 499 Anti-dumping case on imports of footwear from China and Vietnam. CEC is pleased with the fact that the Commission wants to adopt provisional measures.

a. Compelling evidence of serious state intervention, dumping and injury

Seen the drop in the average import price (-22 % in 2005), CEC was quite sure that evidence would be found of dumping, a practice not allowed under WTO.

But even worse, compelling evidence was found of serious state intervention in the leather footwear sector in China and Vietnam like cheap finance, tax holidays, non-market land rents, improper asset valuation.

This state intervention is leading to dumping unacceptable under WTO rules. CEC fosters free, fair and open trade. But how can we be competitive if the low labor cost advantage of Asia is being topped up with state intervention?

60.000 jobs (direct and indirect) have gone lost in 2005, 915 factories closed their doors. A part of this is due to globalization, a large part of this is due to dumping practices and state intervention.

The Commission should act and react to actions not allowed under WTO. Yesterday cheap salmon from Norway, today footwear, what comes tomorrow? Commissioner Mandelson took indeed the expected decision to impose provisional measures against China and Vietnam. This is no protectionism, state intervention is contrary to any notion of fair trade.

b) Scope of the measures

CEC is very skeptical about the Commission's approach towards the scope of the measures, **which is misleading and very likely to render the measures ineffective**. From the press briefing as well as the letter we got from the Commission, it appears that the Commission wants to exclude not only STAF (Special Technology Athletic Footwear), but also children shoes from the scope of the measures, although there has never been any discussion about children shoes. On top of that, the Commission considers to re-define and to enlarge the definition of STAF as a result of the pressure exercised by shoe importers.

In case the Commission would proceed in this manner, **it means that the product scope would be seriously excavated, leaving only about 58 percent of the initial product scope subject to measures**.

CEC wants to avoid that the provisional measures do not become a poisoned gift for the Community industry. CEC believes that the Commission wants to create the impression that it does a serious effort to protect the Community industry, while on the other hand it wants to satisfy the importers by excluding a major part of the footwear concerned.

By excluding STAFF and children shoes, the proposed measures are not effective any more. Dumping and state intervention has been found for STAF footwear and

children shoes. If the Commission wants to restore fair trade, also these products must receive duties.

c) Children shoes

It is completely unacceptable that the Commission is waging the exclusion of children shoes while this issue has never been the subject of discussions between parties. The intention of the Commission to exclude children shoes also lacks the necessary legal basis. The Commission is trying to use the Community interest as a tool to define the product scope and to exclude children shoes from the scope of the measures. However, Community interest is an element which can only be relevant with regard to the question whether it is opportune to adopt measures or not.¹ On the contrary, Community interest is absolutely irrelevant with regard to the definition of the product scope, as there is no basis for that in the Basic AD Regulation. Therefore, the Commission can not rely on the argument of Community interest for the exclusion of children shoes.

Both the press briefing of Mr. Mandelson and different press articles indicate that the Commission is basing its intention to exclude children shoes from the product definition on the interest of the consumer, as measures on children shoes would disproportionately affect families with young children.

First of all, adult shoes and children shoes are essentially made out of the same materials and have other properties in common such as design and technical processes. As far as the production process is concerned, it is correct that there are specialized factories and production methods for children shoes, which take into account specific requirements for this category of shoes. These specific requirements basically have to do with health aspects, which should be seriously considered by the Commission. For example, children shoes require more differentiation in length and width of the shoe, in order to be better adapted to the shape of the feet. This is due to the fact that children are still growing and therefore need footwear that fits as well as possible. However, imported children footwear often comes into the Community in whole sizes according to the English numbering (which means, without differentiation for half sizes), thus not taking into account the specific requirements of a finer size differentiation for children shoes. Apart from the lack of refined measurements, which is important to avoid grow-problems, Chinese and Vietnamese producers are also not able to provide the same guarantee on the quality of the used materials as does the Community industry. Community producers namely require a quality certificate from their suppliers for the supplied materials (e.g. the leather), while there is no such certification provided for imported shoes. With regard to children footwear, this is specifically important, since children prove to be more sensitive for e.g. chemical components used in the production of shoes. In this regard, children shoes in China and Vietnam are very often produced by the same manufacturers as for adult shoes, which explains the use of the same production methods. For these reasons, it would be against the Community interest to exclude children shoes from the measures, as it would be harmful to the quality of children shoes in the Community.

Secondly, the Commission seems to ignore in its analysis the fact that the Community Industry has a viable and competitive production of children shoes and that the problems with regard to dumping and injury are equally threatening the Community industry. For example, charts show that since 2000, Chinese and Vietnamese imports of shoes of less than 24 cm have increased steadily and that

¹ [Such conclusion derives clearly from the provisions of Article 7\(1\), 9\(4\) and 21 of the Basic Regulation.](#)

between 2004 and 2005, the imports from those countries have increased with 61 percent and showed a lower average value of – 7,65 percent. Therefore, there is no ground to exclude children shoes from the scope of the investigation.

Third, we recall that in previous Community anti-dumping cases on footwear there has never been any exclusion of children footwear and neither has the issue of children shoes been the subject of discussions between the parties in the current procedure until the moment the Commission came up with its proposal for provisional measures.

Dumping and state intervention has been found for children shoes which is an unfair threat to many EU manufacturers who still want to compete with China and Vietnam taking into account a fair price, health and environmental issues. Excluding children shoes is a treat for the children in the EU. If the Commission claims that the prices for the consumer will not increase for other types of footwear why then allow dumping for children shoes?

The objective of the Chinese and Vietnamese importers is to take market share with the help of dumping prices and state intervention and as a consequence to eliminate their competitors. Once the competition has decreased, prices will go up.

One should question whether the objective of Mandelson to exclude children shoes out of the scope, will have as a consequence that prices for children shoes will increase once competition has been destroyed.

d) STAF footwear

With regard to STAF, CEC wants to repeat that it does not agree with an exclusion of STAF, no matter what definition is given to this category of footwear. The main reason is that STAF footwear (under the definition that the Commission refers to in its letter) is in direct competition with the other types of footwear which are comprised in the product concerned. This competition is due to the changing pattern in consumer perception and preference, which implies that sports footwear, and *a fortiori* STAF, is more and more perceived as a substitute for other types of casual footwear and to a certain extent even for traditional types of footwear. The counterparties in general also confirm this trend. Therefore, it can no longer be held that there is a separate market for STAF footwear or that they have a different end-use compared to the other types comprised in the investigation. As a logical consequence, and at the same time as an illustration of these developments, STAF footwear is no longer found exclusively in sports-specialized stores, as it was more common in the past. Today, they are offered in almost every shoe retail store.

In this respect, it should also be recalled that the possibility of exclusion of STAF creates serious dangers for circumvention. As it is very difficult for customs authorities to verify STAF classifications and taken into account that in practice they only have the minimum value as a reference for such verification, it is of the utmost importance that a correct and representative minimum value is determined.

3. Present situation of the EU footwear industry

a. Abolition of the quota and circumvention in import flows

The consequences of the dumping of footwear from China and Vietnam for the Community industry have significantly deteriorated since the abolishment of the

quota at the end of 2004. The first available figures for 2005 show that China has been misleading the European Commission for years, which endangers the relation between China and the European Union. Imports from China's neighbours dropped significantly in 2005 which shows the proof of circumvention.

Imports in the Eur-25			
	1000 pairs		
	2004	2005	%
World	1.617	1.940	19,9
China	794	1.250	57,4
Vietnam	294	265	-9,9
Romania	71	71	0,0
Indonesia	59	51	-13,6
India	52	53	1,9
Malaysia	43	11	-74,4
Thailand	33	28	-15,2
Macao	30	3	-90,0
Brazil	27	31	14,8
Turkey	27	25	-7,4
Taiwan	24	5	-79,2
Hong Kong	23	23	0,0
Tunisia	18	20	11,1
Morocco	15	15	0,0
Cambodia	10	7	-30,0

Source: Eurostat

Based on these figures, we may conclude that China has not respected the quotas by importing their production with the help of third countries (Macao, Taiwan, Malaysia). One should question the fairness of this Chinese attitude.

b. Evolution of exports and closed export markets

Exports of the Eur-25			
	1000 pairs		
	2004	2005	%
World	167.286	161.529	19,9
USA	54.140	41.766	-22,9
Switzerland	22.333	20.200	-9,6
Russia	9.968	12.188	22,3
Norway	7.499	8.533	13,8
Japan	7.090	7.124	0,5
Canada	6.880	6.773	-1,6
U.E. Emirates	2.741	3.009	9,8
Hong Kong	2.797	2.488	-11,0
Israel	1.428	1.395	-2,3

Export markets remain closed at 70% for EU footwear. Japan has still a worldwide quota for leather non sports footwear and a high tariff. The US and Canada have tariff peaks up to 84% EU exports are often blocked by non-tariff barriers (NTB's). Although the Commission has made the issue of improved market access a priority in its international trade policy, not many tangible results were achieved. The FTA between the EU and Mexico even installs a quota system for EU footwear. DG Trade is aware of this situation but any quick result is not available. We quote²: "as of 1 January 2005, the EU has been providing virtually unimpeded access to its market. EU tariffs are amongst the lowest in the world, whereas some of the largest and most competitive exporters in the sector maintain tariffs of up to or over 30 %. Many countries, including the largest footwear exporters in the world and the EU's key markets, maintain very significant non-tariff barriers, blocking access to their markets".

During the last bilateral meeting between the EU and Japan, Japan even requested to keep their quota outside the DDA talks. Can someone understand why Japan is allowed to export free their consumer products to the EU whilst at the same time, footwear has a quota?

c. Evolution of imports

Over the period 2000 to 2005, imports of footwear products originating in the People's Republic of China not subject to quotas increased sharply both in absolute terms as well as in terms of share of the Community market, with prices that were substantially lower than the prices of equivalent products manufactured in the Community.

Here some data:

Overall EU shoe market 2005: 2.5 billion pairs

Leather Shoes as % of total EU shoe market: 35%

Products covered by measures as % of total EU shoe market: 9%

Overall China shoe imports to EU 2005: 1.25 billion pairs

China exports 2005, shoes subject to investigation: 206 million pairs

China exports 2005, shoes covered by measures: 145 million pairs

Overall Vietnam shoe imports to EU 2005: 265 million pairs

Vietnam exports 2005, shoes subject to investigation: 119 million pairs.

Vietnam exports 2005, shoes covered by measures: 80 million pairs

Increase in Chinese leather shoe exports to EU 2004-2005: +450%,

Increase in Chinese leather shoe exports to EU 2001-2005: +1000%

Decrease in Vietnamese leather shoe exports to EU 2004-2005:

-1% (largely due to competition from China)

Increase in Vietnamese leather shoe 2001-2005: +95%

Fall in **average unit price** for Chinese/Vietnamese leather shoes 2001-2005:

China -32%; Vietnam -20%; average -28%

² Market Access Action plan DG Trade

Consumer prices for Chinese/Vietnamese leather shoes have remained stable or risen slightly 2001-2005.³

As the EU dropped the quota for footwear by the end of 2004, China should have opened their market for EU shoes. China is importing 1.250.674.946 shoes in the EU. The EU is exporting 1.125.100 shoes to China in 2005.

Does someone believe that Chinese consumers are not interested in buying European shoes? On the contrary, the true story is that NTB's are blocking our exports.

The Community footwear industry is largely composed of small and medium-sized enterprises, most of which are located in regions with few other sources of employment. It is therefore vulnerable to competition from dumped-priced imports originating in particular in the People's Republic of China and Vietnam. In response to this import competition, the Community footwear industry has, in recent years, undergone an extensive restructuring by concentrating its output on more up-market products which are also the products that have been under quota. These products represent approximately 85 % of production in the Community footwear industry. This restructuring has entailed a marked reduction of capacity and workforce. Despite these efforts, the Community footwear industry continues to lose production and market share owing to dumped foreign imports.

d. CEC launched two complaints against China, Vietnam and India

The issue in the present procedure is not the import as such of the footwear concerned, but the dumping practices related to this import. The problem is that the current market situation is based on market-disturbing premises. Anti-dumping measures are exactly intended to restore fair competition by erasing differences between domestic prices and export sales prices in the exporting country. Not taking measures would make all anti-dumping legislation obsolete. Further it is recognised that anti-dumping measures also can have positive effects for consumers, since dumping implies a high risk for abuse of dominant position.

CEC favours open and fair trade and accepts the effects of globalisation as long as the EU industry is given a fair chance. But the influence of the industry stops when the European institutions which should take care of fair trade, reciprocity in market access and respect for WTO rules are abandoned.

If dumping has been proved under the WTO rules, who dares to argue that Europe should not be allowed to take appropriate action?

If dumping has been proved, the Commission must take provisional measures and the Council the final ones!

If the Commission would not act, it will lose its face towards its citizens, the Parliament and the world if it allows dumping independent from the industry concerned. Why should China and Vietnam be allowed to dump products on our market?

Anti dumping measures are not a protectionist tool, but a targeted measure founded on strict legal and economic criteria, guaranteed by an independent investigation from the Commission under WTO rules.

³ SOURCE: Eurostat and Commission data

4. Impact of the dumping on the industry

a. Loss of production

Eur-25 production of footwear				
	1000 pairs			
	2002	2003	2004	2005
All types of footwear	883.187	781.130	700.338	609.000
Footwear under AD investigation	520.937	460.254	444.187	377.000

Source: Eurostat, CEC member federations

b. Loss of employment

Eur-25 - Number of workers in the footwear industry				
	2002	2003	2004	2005
All types of footwear	339.670	311.054	290.409	259.000
Footwear under AD investigation	275.133	251.954	232.327	204.000

Source: National Federations, elaboration CEC

c. Social dumping and state aid

Everyone involved in this anti dumping investigation is wondered about the decrease of the import price and how Chinese and Vietnamese producers are able to manufacture at a price which not even covers the materials used.

Import prices of leather footwear have decreased the last years significantly, but the question is whether consumers have been able to take profit of this.

Average price of the footwear imported from China decreased by 44% between 2001 and 2005 (Vietnam: -31%) and the average price of the footwear at the level of the consumer remained stable or risen slightly.

Besides the fact that Chinese and Vietnamese companies do not work under Market Economy Status (this status has been refused by the Commission based on the existing regulation), it is well know that these companies get unfair state subsidies, like cheap government financing, cheap rent for factories and tax breaks. In other words a state intervention which put European companies in a situation of unfair trade.

In addition of the state trade, the social environment and conditions of the workers in the factories are too bad to believe, but they offer China and Vietnam considerable competitive advantages which allows them to export at dumping prices. Wages of 12 \$ a week are mentioned in the reports of Chinalaborwatch (see <http://www.chinalaborwatch.org>) whilst at the same time the social rights of many workers are reduced to an absolute minimum.

CEC fosters free and open trade, as long as no state intervention and no social dumping takes place. The findings of the Commission on state aid and the reports of Chinalaborwatch indicate the reasons for import at dumping prices.

d. Environmental dumping

The European Union has established some directives and regulations related to the environmental impact of footwear manufacturing. Some governments in Europe are testing imported footwear on their compliance with the EU regulations.

5. Need of anti-dumping measures

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.

a. 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 22 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.

b. Retail will not suffer losses

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.

c. EU production must be protected in case of dumping

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.

d. 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.

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.

e. Anti-dumping legislation applies to all, including China and Vietnam

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.

f. Textile case can NOT be compared to footwear

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.

g. Shoes are made for walking

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 interchangeability 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).

h. Ad valorem duties restore fair competition

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.

6. Questions to be asked by MEPs to the Commission

- I. Could the Commission provide us the following data for children shoes comparing with other types: physical characteristics, end use, distribution channels, degree of competition, cost for manufacturing... which have supported the recommendation that children footwear are not the same product concerned?
- II. To reach such a conclusion the Commission would have first determined the level and the cost of replacement of children shoes and then it would have used some indicators such as purchasing power of European families, financial indicators, expenditures of families, etc. to examine the effect of this cost on the financial situation of the average European families.
Could the Commission provide the analysis that leads to that conclusion?
- III. Could the Commission provide any precedent in which, on the grounds of community interest any of the elements of the investigation (investigation period, product scope, MET, analogue country...) have been changed?
- IV. Could the Commission give us precise data about the situation of the Community producers of children footwear?
- V. Could the Commission provide information about the dumping in children footwear?
- VI. Children shoes have to be replaced more often than adult shoes according to Commissioner Mandelson. Thus, any effect of anti-dumping measures on children shoes would higher as compared to the effect of normal shoes. The additional costs to consumers of children shoes might also negatively affect the financial situation of the average European families to a considerable extent. Could the Commission provide us with detailed information of the cost-benefit analysis that has carried out in order to reach this conclusion?
- VII. Could the Commission explain why the argument of excluding children shoes have been highlighted for the first time in this investigation, given no chance to all parties to present their arguments in favor or against this recommendation, as it is the normal practice?
- VIII. Could the Commission explain how this exclusion is compatible with the principle of non discrimination?
- IX. Could the Commission explain why taking the risk of litigation before the EU Courts or the WTO taking into account the discrimination among producers of shoes of more than 24 cm and the producers of a size of -24 cm?
- X. Could the Commission explain us how the injury would be removed during the period in which the antidumping duties will be lower than the margin of injury?
- XI. Could the Commission answer if there is any precedent of phase in system in the EC or in WTO practice?
- XII. Could the Commission provide us the legal basis in the WTO Agreement or in the EU legislation for applying provisional measures in a progressive way? Has it consulted the legal services about this issue, what was its point of view?
- XIII. Is the Commission aware of the implications for this type of approach for future antidumping cases?
- XIV. Why the Commission didn't use this approach in the previous footwear case or in other procedures concerning elementary finished products such as handbags or bed linen?

- XV. Could the Commission explain in more detail the special characteristics of footwear that permit this distinction and why such specifications require a progressive AD system?
- XVI. Could the Commission give more evidence and figures that the injury was suffered in particular during the last part of the IP?
- XVII. Could the Commission provide the figures of the monthly imports from China and Vietnam from 1 January 2005 to January 2006?
- XVIII. Could the Commission explain why an injury suffered in particular during the last part of the IP can justify postponed full imposition of antidumping duties?
- XIX. Has the Commission considered the possibility of a huge increase of dumped imports during the first part of the period in which provisional duties will be applied?
- XX. Has the Commission evaluated the negative consequences of this alternative for the community industry?
- XXI. Taking into account the lower level of the proposed provisional duties (16,8 % for Vietnam and 19,4 % for China) and the huge margins of profits of intermediaries, why the Commission expects an increase in prices and certain shortage in the Community market?
- XXII. Why the Commission considers that Community production will not adjust to EU demand?
- XXIII. How the Commission could explain any shortage if, 80% of the EU market will be free from any AD duties?
- XXIV. Could the Commission give any evidence and figures concerning the forecast of evolution of the competition in the EU market following the imposition of the AD duties proposed?
- XXV. Could the Commission say if some other products under AD duties have the same system of order and deliver of the footwear transactions?
- XXVI. Could the Commission explain us why it considers that nine months (from the 7th of July until the 7th of April) is not a reasonable period of time for importers to adapt to the new situation?
- XXVII. Has the Commission got any clear evidence that importers need more than 9 months between the moment in which they made the order and the moment in which they will receive the goods?
- XXVIII. Is there a legal basis to use adjustments in the injury part of investigation i.e. in calculation of injury margin or price undercutting?
- XXIX. Could the Commission provide detailed information about the level of costs of each category (R&D, design, raw material...) and the percentage of these costs in the total cost of production of Chinese and Vietnamese exporters?
- XXX. Could the Commission provide the same information for the Community products?
- XXXI. How many importers and their relationship with their corresponding Chinese and Vietnamese companies have been analyzed to determine their individual level R&D, design and raw material costs?
- XXXII. How the Commission has determined the average level (if any) applied to the rest of the companies?
- XXXIII. What would be the level of undercutting leaving aside the R&D, design and raw materials cost incurred by importers?

- XXXIV. How has the Commission calculated that level of adjustment and why it is different in case of China and Vietnam?
- XXXV. Does the Commission maintain that a doubling of price is credible? Does it maintain that there is any chance that such a high increase of prices really takes places?
- XXXVI. Which test has the Commission performed in order to conclude that consumers of sporting equipment clearly make the distinction between footwear specifically designed for sporting activities and other types of footwear that look like sports shoes?
- XXXVII. Has the Commission analyzed the proportion of STAF that is in fact used just for sporting activities? Could the Commission provide some data supporting the proportion found?
- XXXVIII. If indeed most of STAF is not used in sporting activities, could the Commission explain how it considers that the level of interchangeability between STAF and the rest of footwear and the degree of competition between them is limited?
- XXXIX. What was the trend in volume and prices of imports of STAF if the mentioned reference period is used?
 - XL. Has the Commission consulted TAXUD about its experience regarding the risk of circumvention that could have taken place when the STAF was excluded for the previous quota system of China?