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UNICE SUBMISSION

Speech by Monique Jones, Chair of UNICE WTO Trade Policy Instruments Working Group

In the rule-based multilateral trade system promoted by the WTO – to which UNICE fully adheres – discipline is an essential component without which the rights and obligations of the partners to the system would rapidly be eroded by the very fact that infringements to the rules would go unpunished. Anti-dumping, anti-subsidy and safeguard measures are major instruments of such discipline, and this is why UNICE carefully monitors and takes positions on regulatory developments and case law in this sector with a view to ensuring that the instruments themselves and their implementation rules are designed for effectiveness and operated in a non-discriminatory and uncorrupted manner.

- Market behaviour and conditions are, and should be, the sole drivers of recourse to anti-dumping, anti-subsidy or safeguard actions, meaning that, in our opinion, there is no point in speaking about policy in their respect. AD, AS and safeguard measures exist for the sole purpose of restoring fair and rule-based trade conditions when these cease to operate or are disrupted by unfair market practices.
  They enable the industry that is injured by such practices to exert its legitimate right of defence, and we therefore care and request that they be operated without any influence from policy considerations.
  What is at stake here is fair trade and the elimination of injury caused by unfair market practices – not external relations, development, industrial or even trade policy.

- Having established this principle, our next major concern is to ensure that the Community industry has effective instruments at its disposal. In this respect, the European trade defence instruments have the weaknesses of their very qualities. With regard to the Community anti-dumping instrument in particular – this being the one to which market circumstances most often justify recourse – the EU industry is faced with very demanding submission criteria and investigation proceedings that delay the enforcement of measures to an extent which it is often difficult for the complainant industry to tolerate. It is also faced with very well thought-out assessment rules that lead to measures that are strictly tailored to the minimum theoretically required for eliminating injury. In these conditions, it is generally (and unfortunately) only the most extreme situations that trigger measures – of which all the more is expected in terms of effectiveness.
  This need for effectiveness explains why the industry would welcome any adjustment of the current EC methodology that would result in the shortening of the time delay for enforcing provisional measures, and the facilitation of prompt interim reviews in the event of the absorption, circumvention or any other blatant inefficiency of the measures enforced.

- Finally, we place a great deal of importance on the fact that the implementing rules for the AD, AS and safeguard instruments should enable industry everywhere to exert its rights of defence in the same way. This is essential in order to ensure that the instruments do not become a source of trade distortions themselves, and it is with this in view that UNICE urged, as far back as June 1999, that "a more harmonised approach in implementation of the anti-dumping instrument" be sought "as a necessary complement to market access liberalisation". Our proposal was echoed in Indent 28 of the Doha Ministerial Declaration, and we are fully

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committed to supporting discussions aimed at clarifying the Agreements on Implementation of Article VI of the GATT and on Subsidies and Countervailing Measures that would be strictly targeted at a more transparent, predictable, harmonised and non-discriminatory enforcement of the anti-dumping and anti-subsidy instruments. In this respect, we feel that the EU can contribute a great deal to the debate, as its regulations contain many very progressive features that would merit being widely adopted, such as the lesser duty rule, the public interest clause and the provisions on circumvention (as regards anti-dumping). Clarifications and harmonisation in respect of the assessment of key parameters, the scope of information required, the scope of investigation, and the transparency of findings would all be major contributions to the credibility and predictability of the instruments, and would place all stakeholders on an equal footing.

At this moment in time, when the globalisation of trade is a reality that is generally boosting the competitiveness of markets and creating new challenges for industrial operators, the AD, AS and safeguard instruments are all the more legitimate and necessary.

The changing international trade context and features brought up by globalisation mean, however, that the rules need to be clarified and eventually adjusted – without infringing on their founding concepts and principles – so as to ensure their effectiveness, and hence their credibility, predictability and equanimity.

The business sector that plays by the rules needs instruments that ensure that the latter are respected. It is unacceptable for it to be deprived of the means of exerting its rights of defence. On the contrary, it is legitimate for these means to be made clearer at the very time when the development of the regulatory framework of nations and their improved awareness of, and capacity to use, trade instruments demonstrates the need for the implementing legislation to be harmonised along more rigorous lines.

Achievements in this sector, both at EU and WTO level, would undoubtedly contribute to the consolidation of the multilateral trade system and the provision of a truly level playing-field to its members.

Monique Jones
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