



# Evaluation of the Scheme for the Autonomous Suspensions of CCT Duties

Final report

*5 December 2013*

the evaluation partnership 

  
Europe Economics

## **Evaluation of the Scheme for the Autonomous Suspensions of CCT Duties**

### **Final Report**

Submitted on 5 December 2013 to the

**European Commission, Directorate General for Taxation and Customs Union**

Submitted by

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Specific Contract No 1 under Framework Service Contract 2012/CC/116

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ISBN 978-92-79-34676-7  
doi:10.2778/31962

catalogue number: KP-02-13-760-EN-N

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## List of acronyms

ACP	Africa, Caribbean, and Pacific Group of States
ARF/KRF	Argon Fluoride/ Krypton Fluoride
CCT	Common Customs Tariff
CEFTA	Central European Free Trade Agreement
CIRCA BC	Communication and Information Resource Centre for Administrations, Businesses and Citizens
CN	Combined Nomenclature
COMEXT	EU Database of External Trade Statistics
DG AGRI	Directorate General for Agriculture and Rural Development

DG DEVCO	Directorate General for Development and Cooperation
DG ENTR	Directorate General Enterprise and Industry
DG TAXUD	Directorate General for Taxation and Customs Union
DG TRADE	Directorate General for Trade
DMD	Digital Micro-mirror Device
EBA	Everything But Arms
EC	European Commission
EE	Europe Economics
EO	Economic operator(s)
EPA	Economic Partnership Agreement
ETQG	Economic Tariff Questions Group
EU	European Union
€	Euro
GDP	Gross Domestic Product
HS	Harmonized Commodity Description and Coding System
ICS	Import Control System
ITC	International Trade Centre
LCD	Liquid-crystal Display
LHS	Left-hand side
MERCOSUR	Southern Common Market
MS	Member State(s)
MTB	Miscellaneous Tariff Bill
NA	National authority
OJ	Official Journal
RHS	Right-hand side
SME	Small and medium sized enterprise
TARIC	Integrated Tariff of the European Communities
TEP	The Evaluation Partnership
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
USA	United States of America
VAT	Value Added Tax

## **Abstract**

The evaluation of the EU's autonomous tariff suspensions scheme assesses both the impact of the scheme and the way in which it is implemented. Its purpose is to contribute to evidence-based policy-making, demonstrate the economic and societal value of the system, and identify possible improvements. The evaluation was carried out in 2013 and used a mix of methods (including desk research, surveys, interviews and case studies) to generate quantitative and qualitative data.

Based on the available evidence, the evaluation concludes that the core rationale for the scheme remains valid. The cost savings for EU businesses that import goods under the scheme can be significant. In turn, these savings can lead to wider benefits (such as higher profitability, lower user / consumer prices, more efficient production methods, etc.), depending on the product, company and sector in question.

While there are some concerns related to certain unintended negative effects, these are not significant enough to call into question the overall effectiveness and justification of the scheme, which should continue. Nonetheless, certain features deserve to be reviewed, including the processes for awareness raising (in particular among SMEs) and for dealing with objections (in particular to enhance clarity around what constitutes an "identical, equivalent or substitute product").

## Executive Summary

### The Scheme for the Autonomous Suspensions of CCT Duties

The autonomous suspensions scheme provides EU manufacturing businesses with an opportunity to import raw materials, semi-finished goods or components that are not available within the EU at zero or reduced duty rates. The cost savings from this are expected to stimulate economic activity within the EU, to improve the competitive capacity of these enterprises and, in particular, to enable the latter to maintain or create employment, modernise their structures, etc.

In principle, any business located in the EU can apply for a tariff suspension, provided it can demonstrate that the good in question fulfils a series of specific requirements. Companies submit applications to the designated national authorities in their respective Member States; these collect applications (as well as objections, where relevant), and transmit them to the European Commission. The Commission examines the requests with the aid of the Economic Tariff Questions Group (ETQG). Regulations granting, prolonging, modifying or eliminating suspensions are adopted by the Council – on the basis of a Commission proposal – twice per year.

More than 1,600 products were subject to a suspension as of late 2011. On average, between 2007 and 2011 the value of imports under suspension was €18.4 billion per year, and the average value of import duties saved by beneficiaries (and at the same time, tariff revenue foregone by the EU) €944 million per year. Throughout this period, approximately 80% of imports that benefitted from suspensions fell under two broad categories: micro/mechanics<sup>1</sup> and chemistry.<sup>2</sup>

### Rationale and scope of the evaluation

In a 2011 Communication, the Commission announced its intention to launch a study “on the impact of autonomous tariff [...] suspensions on the EU economy”<sup>3</sup> in order to contribute to evidence-based policy-making, demonstrate the economic and societal value (or lack thereof) of the system, and identify possible improvements. With this in mind, the present external evaluation was commissioned by the Commission (DG TAXUD) in late 2012, to cover the suspensions scheme during the five-year period from 2007 to 2011 and assess:

- The impacts resulting from the suspensions, in particular the impact on the competitiveness of EU businesses, as well as possible unintended effects.
- The way in which the system is implemented, including the application and decision-making process, issues related to enforcement, as well as how the scheme is communicated to EU businesses.

### Evaluation approach and methods

The evaluation approach consists of a combination of analysis of data from existing sources, and direct engagement of beneficiaries and stakeholders to generate new

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<sup>1</sup> The micro/mechanics category includes products in TARIC chapters 84, 85, 87, 90, 91, 94, 95 and 96

<sup>2</sup> The chemistry category includes products in TARIC chapters 27, 28, 29, 32, 33, 34, 35, 37, 38

<sup>3</sup> Communication concerning autonomous tariff suspensions and quotas (2011/C 363/02)



primary data. This resulted in a combination of quantitative and qualitative data that was mapped (in accordance with a series of judgment criteria and indicators defined during the project's inception phase) to the different evaluation questions and triangulated to arrive at robust and well-founded conclusions and recommendations.

The main evaluation methods used can be summarised as follows:

- Desk-based research: Reviewed and analysis of existing secondary data from a variety of sources, in particular EU trade data from COMEXT.
- Surveys and questionnaires: To collect input and feedback from interested / affected parties, we used three separate online / written consultation tools:
  - A questionnaire for national authorities (22 responses)
  - A survey of applicant companies (122 unique responses).
  - A survey to test awareness of the scheme among EU businesses (91 responses).
- In-depth interviews: 53 semi-structured interviews were conducted with representatives of national authorities, businesses, trade associations, organisations representing the interests of countries with special trading agreements, and Commission officials from different services.
- Case studies: In order to gain a deeper understanding of the impacts of the tariff suspensions scheme, a series of 12 case studies was carried out. Each case study focused on one product for which the import duties were suspended for all or part of the period from 2007 to 2011, or which completed the application process during this period. The sample of products was selected to be broadly representative of the wider universe of suspensions.

By using these methods and triangulating the data from different sources, the evaluation generated an evidence base that was sufficient to answer all the pertinent evaluation questions and draw robust conclusions. Nonetheless, it is important to note that the evaluation faced a number of practical challenges that led to certain limitations in the analysis that was feasible. These mainly related to

- Limitations of the existing data, in particular the lack of trade data for specific products *before* the suspension was granted, and the fact that there is no practical way of knowing exactly which businesses import the suspended goods, which makes it impossible to undertake analysis of business statistics to try to isolate the impact on companies.
- Throughout the evaluation, it was difficult to engage with and collect input from economic operators. This was due to a combination of factors, including the lack of a central database of applicants, and a reluctance on the part of some economic operators to participate in surveys or interviews and provide data (which in some cases they may have considered commercially sensitive).

### **The benefits (main intended impacts) of the scheme**

The evaluation has found that the core rationale for the EU's tariff suspensions scheme remains valid. In the absence of domestic production to protect or foster, there is no clear economic rationale for imposing tariffs on foreign imports, and a reduction of tariffs will be beneficial for EU producers and, by extension, the EU economy as a whole.

The evaluation confirms the economic benefits for EU producers that use tariff-suspended imports as inputs in their production process. The resulting cost savings can be significant: during the period covered by this evaluation (2007-2011), the average annual cost saving per TARIC code linked to a suspension was approximately €600,000 (although contained within this average are huge variations). This economic benefit typically accrues, in the first instance, to a relatively small number of companies (sometimes just one) that import the specific product in question.

In absolute terms, Germany (which accounted for just less than 25 % of tariff-suspended imports), Hungary and Slovakia were the Member States whose businesses benefited the most (i.e. imported the greatest value of products under tariff suspension). In relative terms, the greatest beneficiaries were firms based in the Czech Republic, Hungary and Slovakia; for these three countries, more than 5% of all imports were subject to a tariff suspension.

The evaluation also confirms that these cost savings result in wider benefits. Depending on the product, company and sector in question, the cost savings lead to higher profitability (or the reduction of losses), lower user / consumer prices, more efficient production methods, positive effects on employment, or any combination of these.

### **Possible (unintended) negative effects**

Thus, the underlying economic rationale for the suspensions scheme remains sound, and the scheme is effective in reaching its primary objective, i.e. to enhance the competitiveness of beneficiaries by allowing them to benefit from cheaper imports. However, unintended effects could, in principle, reduce, offset or even outweigh these benefits. The evaluation has investigated the following possible effects:

- Domestic producers: Negative impacts on EU producers of identical, equivalent or substitute goods are likely to arise, if and where such goods are manufactured within the EU. The evaluation results suggest that the process of objections currently does not eliminate this risk entirely. As a result, there may be cases where suspensions are granted in spite of a (potentially) equivalent or substitutable product being available. While this problem is not widespread enough to call into question the overall economic justification of the scheme, there is room for improvement and clarification as regards the objections process, in order to further minimise the risks.
- Profits retained by importers: The evaluation shows that the vast majority of EU businesses that use suspended goods import these directly (rather than via a third-party intermediary), meaning that the bulk of the benefits do accrue to and help to bolster the competitiveness of EU manufacturing businesses.
- Producers in third countries: A suspension of import tariffs *erga omnes* results in an erosion of the preferences the EU has granted to countries with special trading agreements, including ACP countries (via EPAs), LDCs (via EBAs), and countries in the Western Balkans. However, the analysis suggests that the impact of this in practice is limited, as the majority of suspensions are granted for goods where producers in these countries do not exist or are not competitive. Nonetheless, it cannot be ruled out entirely that a small number of specific producers from said countries may have been negatively affected (although the evaluation has not found any evidence for this).

- EU leverage in trade negotiations: By unilaterally eliminating import tariffs for certain goods, in theory the EU reduces its leverage in international trade negotiations because it has less to offer in return for concessions from third countries. However, in practice this has not materialised in recent negotiations, because the trade flows of suspended goods are usually too small to be of significant concern to those involved in the negotiations, and because the actual trade flows under the scheme are too opaque to be used as an effective negotiating tool. Nonetheless, in a few specific cases, suspensions affect a higher proportion of trade (in particular Japan), which – if it were brought up during negotiations – could potentially weaken the EU’s negotiating position.
- Cost of administering the scheme: We estimate that the human resources need for running and administering the scheme amount to around 50 FTEs in total (including staff at DG TAXUD and national administrations). National delegates do not view the burden on national authorities as excessive, and the delivery mechanisms on the whole were found to be efficient. The vast majority of economic operators report that the cost of applying is dwarfed by the benefits (although there are instances when objections can lead to burdensome arguments, exchanges and requests for information). Overall, the cost of administering the scheme for the public sector, and the administrative burdens and compliance costs it imposes on businesses, was found to be reasonable.

Thus, while there are a number of concerns, and some (anecdotal) evidence of unintended negative effects in some cases, these are nowhere near significant enough to call into question the overall effectiveness and justification of the scheme, which should continue.

### **Room for improvements**

In the future, if/when tariffs as a whole fall further, the benefit-cost ratio of the scheme is likely to deteriorate, and there may come a time when the benefits no longer justify the costs. It is recommended to review the situation again when tariff schedules fall further.

In the meantime, the evaluation has shown that there are a number of areas related to the implementation of the scheme that lead to practical difficulties. Features that should be reviewed include:

- Awareness raising (in particular among SMEs): The evaluation has shown that ‘insiders’ (i.e. those who are aware of the scheme and often have previous experience with suspensions) find it relatively easy to navigate the system and obtain the necessary information. However, at present there seems to be an information imbalance: the level of awareness depends to a great extent on the efforts of national authorities and trade associations, with very unequal results. Companies in certain countries and/or sectors, and in particular SMEs, tend to be less aware of the opportunities provided by the scheme.

The EU should take steps to ensure that all EU manufacturing businesses (including SMEs) have the opportunity to be informed.

The EC should also consider if and how it could involve trade associations in the communication about the scheme to a greater extent, and in a more consistent way.

It may also be worth considering developing a simple, step-by-step guide to the scheme, explaining in clear and simple terms what it does, and how companies can apply.

- Transparency vis-à-vis EU producers: Similarly to the previous point, there is also a need to take a more consistent approach to alerting EU businesses to suspension requests that may harm them (because they are able to supply the products in question) and enable them to raise an objection in cases where this is justified.

The EC should consult with ETQG members to identify ways in which a better dissemination of information concerning suspension requests among relevant enterprises could be achieved. Since some Member States seem to do this very effectively among 'their' companies, there would seem to be scope for a more consistent application of best practices in this area.

- Dealing with objections: In principle, the grounds for objections seem reasonably straightforward: where an EU producer is able to provide "identical, equivalent or substitute products" a suspension will not be granted. However, in practice, the question of what exactly constitutes an equivalent or substitute product is frequently the subject of heated debate. The difficulty of taking a consistent approach to such controversies leads not only to considerable frustration and loss of time, but also to questions being posed about the adequacy, fairness and transparency of the decision-making process.

The EC should consult with other relevant actors (including ETQG members) with a view to developing a definition of what, for the purpose of autonomous suspensions, constitutes an "equivalent or substitute product". Similar questions have long been posed in other areas, including competition law, so there could be no need to 're-invent the wheel'.

- Also regarding the objections and decision-making process, a significant number of ETQG members raised concerns over situations where another EC service (such as DG AGRI) raises objections against a particular suspension request. In such situations, there can be a lack of transparency, which can lead to misgivings among delegates.

It should be clarified in what circumstances and under what conditions suspension requests will not be granted because "the Union interest dictates otherwise". EC services that wish to oppose a request should be required to clearly state the reasons and, if so desired by the members, defend their position in the ETQG.

- Particularly if the awareness of the scheme is increased further (see above), the number of applications is likely to rise, which will have implications for the time it takes the authorities to deal with them and reach a decision. Since most ETQG members would be opposed to more meetings, ways would need to be found to deal with a greater proportion of the work of the group through other channels.

DG TAXUD and the ETQG should explore if and how technical and linguistic issues (mainly to do with product descriptions and their translation or classification) can be dealt with outside of ETQG meetings. In particular, ways should be sought to use CIRCABC to a greater extent, so as to reserve the time during meetings for the truly crucial issues.

Finally, it is worth considering the calls from various stakeholders to 'open up' the system further, e.g. by lowering the duty savings threshold for an application to be eligible, by allowing trade associations to input more into decision-making, or by abolishing end-use controls. The expectation is that such steps, in combination with a heightened awareness of the scheme among EU manufacturing businesses, would lead to a higher number of applications, and thus a greater impact on the competitiveness of the EU economy.

However, there are drawbacks to this. Autonomous tariff suspensions represent an exception from the normal state of affairs. As highlighted above, there are costs involved in administering the scheme, and some applications (and objections) can be difficult and time-consuming to deal with, and require a careful review so as to ensure no EU interests are harmed. In view of this, it may not be desirable for the authorities to have to deal with a large number of low-value suspension requests, where the costs may well exceed the ultimate benefits.

Also, in light of the argument raised above (likely diminishing significance of suspensions as EU trade is increasingly liberalised), it may not be advisable to attempt to maximise the use of the system. Instead, the predominant concern should be fairness – meaning equal opportunities for all EU firms to benefit from the system, and the maximum possible degree of legal certainty and transparency as to alerting potential objectors, the criteria for objections and how these will be applied. If this is guaranteed, there is not much of a case for making the scheme more 'liberal'. As long as the criteria are clear and transparent (see the point about substitutability above), the Commission should not hesitate to reject applications that would risk harming some EU businesses while benefiting others.

## Synthèse

### Le programme de suspensions tarifaires autonomes des droits du TDC

Le programme de suspensions tarifaires autonomes permet aux entreprises manufacturières de l'UE d'importer des matières premières, des semi-produits et des composants qui ne sont pas disponibles dans l'UE à des droits de douane réduits ou nuls. Les économies qui résultent de ce programme sont destinées à stimuler l'activité économique au sein de l'UE, à améliorer la compétitivité de ces entreprises et, en particulier, à leur permettre de conserver ou de créer des emplois, de moderniser leurs structures, etc.

En principe, toute entreprise établie dans l'UE peut demander à bénéficier de ces suspensions tarifaires, sous réserve qu'elle puisse démontrer que le produit en question remplit une série de critères spécifiques. Les entreprises soumettent leurs demandes aux autorités nationales pertinentes dans leurs Etats membres respectifs ; celles-ci recueillent les demandes (ainsi que les objections, le cas échéant), et les transmettent à la Commission européenne. La Commission examine les demandes avec l'assistance du groupe de travail «économie tarifaire» (GTET). Les règlements relatifs à l'octroi, la prolongation, la modification ou l'élimination des suspensions sont adoptés par le Conseil – sur la base d'une proposition de la Commission – deux fois par an.

Plus de 1 600 produits faisaient l'objet d'une suspension à la fin 2011. En moyenne, entre 2007 et 2011, la valeur des produits bénéficiant d'une suspension s'élevait à 18.4 milliards d'euros par an, et la valeur moyenne des droits d'importation économisés par les bénéficiaires (et donc, la perte de revenus pour l'UE) atteignait 944 millions d'euros par an. Au cours de cette période, environ 80% des importations ayant bénéficié de suspensions relevaient de deux grandes catégories : les produits micro/mécaniques<sup>4</sup> et chimiques<sup>5</sup>.

### Motifs et portée de l'évaluation

Dans une Communication de 2011, la Commission avait annoncé son intention de lancer une étude « sur les effets des suspensions [...] tarifaires autonomes sur l'économie de l'UE<sup>6</sup> » en vue d'élaborer sa politique sur la base d'éléments probants, d'évaluer la valeur économique et sociétale du système, et d'identifier des améliorations possibles. Dans cette perspective, la présente évaluation extérieure a été mandatée par la Commission (DG TAXUD) à la fin 2012, afin d'examiner le programme de suspensions au cours de la période de cinq ans de 2007 à 2011 et d'évaluer :

- Les effets des suspensions, en particulier l'impact sur la compétitivité des entreprises européennes, ainsi que leurs possibles effets indésirables.

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<sup>4</sup> La catégorie produits micro/mécaniques inclut les produits des chapitres TARIC 84, 85, 87, 90, 91, 94, 95 et 96.

<sup>5</sup> La catégorie produits chimiques inclut les produits des chapitres TARIC 27, 28, 29, 32, 33, 34, 35, 37, 38.

<sup>6</sup> Communication de la Commission concernant les suspensions et contingents tarifaires autonomes (2011/C 363/02).

- La manière dont le système est mis en œuvre, notamment son application et son processus de décision, les questions liées à son exécution, ainsi que la façon dont les entreprises de l'UE en sont informées.

### **Approche et méthodes de l'évaluation**

L'approche de l'évaluation consiste en la combinaison d'une analyse des données provenant de sources existantes et d'une collaboration directe avec les bénéficiaires et les parties prenantes en vue de générer de nouvelles données primaires. Une combinaison de données quantitatives et qualitatives ont été produites, qui ont été mises en lien (en accord avec une série de critères d'évaluation et d'indicateurs définis durant la phase de préparation du projet) avec les différentes questions de l'évaluation et recoupées afin de parvenir à des conclusions et des recommandations solidement fondées.

Les principales méthodes d'évaluation utilisées peuvent être résumées comme suit :

- Une recherche documentaire : Examen et analyse des données secondaires existantes provenant de sources diverses, notamment les données relatives au commerce de l'UE issues de COMEXT.
- Des sondages et des questionnaires : Afin de recueillir les opinions et réflexions des parties intéressées ou affectées, nous avons utilisé trois outils de consultation distincts en ligne / écrits :
  - Un questionnaire soumis aux autorités nationales (22 réponses) ;
  - Un sondage des entreprises ayant soumis des demandes (122 réponses uniques) ;
  - Un sondage auprès des entreprises de l'UE destiné à évaluer leur connaissance du programme (91 réponses).
- Des entretiens détaillés : 53 entretiens semi-structurés ont été menés avec des représentants des autorités nationales, des entreprises, des associations de commerce, des organisations représentant les intérêts des Etats bénéficiant d'accords commerciaux particuliers, et des représentants de divers services de la Commission.
- Des études de cas : En vue de parvenir à une meilleure compréhension des effets du programme de suspensions tarifaires, une série de 12 études de cas a été menée. Chaque étude de cas portait sur un produit pour lequel les droits de douane avaient été suspendus pour tout ou partie de la période 2007-2011, ou pour lequel la procédure de demande avait été menée à bien au cours de la période. Les produits ont été sélectionnés de manière à être représentatifs de l'ensemble des produits ayant bénéficié de suspensions.

En recourant à ces méthodes et en recoupant les données tirées de différentes sources, l'évaluation a permis de produire suffisamment de données concrètes pour répondre à toutes les questions pertinentes de l'évaluation et de déduire des conclusions solides. Cependant, il convient de noter que l'évaluation s'est heurtée à un certain nombre de défis pratiques qui ont limité dans une certaine mesure le champ de l'analyse possible. Ces défis ont surtout porté sur :

- Des limites dans les données existantes, notamment l'absence de données commerciales portant sur des produits précis *avant* que ceux-ci n'aient bénéficié de la suspension, ainsi que l'impossibilité pratique d'identifier

précisément les entreprises qui importaient les biens bénéficiant de suspensions, ce qui a empêché une analyse des statistiques commerciales qui aurait permis d'isoler l'impact sur les entreprises.

- Tout au long de l'évaluation, il s'est avéré difficile de collaborer avec les opérateurs économiques et de recueillir leurs vues. Cela résulte de plusieurs facteurs, tels que l'absence d'une base de données centrale des demandes, ainsi que d'une certaine réticence de la part des opérateurs économiques à participer aux sondages ou aux entretiens et à fournir des données (que certains considéraient peut-être comme sensibles du point de vue commercial).

### **Les effets positifs (principaux effets recherchés) du programme**

L'évaluation révèle que les motivations essentielles du programme de suspensions tarifaires de l'UE restent valides. En l'absence d'une production intérieure à protéger ou à encourager, il n'existe pas de motif économique clair pour imposer des droits aux importations, et la réduction de ces droits bénéficiera aux producteurs de l'UE, et, par extension, à l'économie européenne dans son ensemble.

L'évaluation confirme les avantages économiques dont bénéficient les producteurs de l'UE qui utilisent, pour leur processus de production, des produits importés pour lesquels les droits sont suspendus. Les économies qui en découlent peuvent être significatives : au cours de la période couverte par cette évaluation (2007-2011), l'économie moyenne annuelle par code TARIC liée à la suspension des droits s'élevait à environ 600 000 euros (avec des écarts très importants selon les cas). L'avantage économique profite en règle générale d'abord à un nombre d'entreprises relativement faible (parfois une seule) qui importent le produit en question.

En termes absolus, l'Allemagne (qui est concernée par un peu moins de 25% du total des importations bénéficiant de suspensions de droits), la Hongrie et la Slovaquie sont les Etats membres dont les entreprises ont le plus profité du programme (c'est-à-dire qui ont importé le plus grand nombre – en valeur – de produits bénéficiant des suspensions). En termes relatifs, les plus grands bénéficiaires du programme étaient les entreprises établies en République tchèque, en Hongrie et en Slovaquie ; pour ces trois Etats, plus de 5% du total des importations bénéficiaient de suspensions de droits.

Cette évaluation confirme également que ces économies produisent des effets positifs plus larges. Selon le produit, l'entreprise ou le secteur en question, les économies ont engendré une rentabilité plus élevée (ou une réduction des pertes), des prix plus bas pour les utilisateurs / consommateurs, des méthodes de production plus efficaces, un impact positif sur l'emploi, ou une combinaison de ces différents effets.

### **Effets négatifs (indésirables) potentiels**

Ainsi, le raisonnement économique qui justifiait le programme de suspensions reste fondé, et celui-ci atteint efficacement son objectif principal, à savoir l'amélioration de la compétitivité des bénéficiaires grâce à la diminution du coût de leurs importations. Cependant, des effets indésirables pourraient, en principe, réduire contrebalancer, voire supplanter ces effets positifs. L'évaluation a examiné les effets potentiels suivants :



- Producteurs intérieurs : Il est possible que les producteurs de l'UE de produits identiques, équivalents ou substituables subissent des effets négatifs, si ces biens étaient fabriqués à l'intérieur de l'UE. Les résultats de l'évaluation suggèrent que le processus d'objections ne permet pas en l'état d'éliminer entièrement ce risque. Aussi, il peut arriver parfois que des suspensions soient accordées alors même qu'un produit (potentiellement) équivalent ou substituable est disponible. Bien que ce problème ne soit pas suffisamment étendu pour remettre en cause la justification économique globale du programme, il serait utile d'améliorer et de clarifier le processus d'objections, afin de limiter encore davantage ce risque.
- Profits conservés par les importateurs : L'évaluation montre que la grande majorité des entreprises de l'UE qui utilisent des produits bénéficiant de suspensions les importent directement (et non via une tierce partie qui agirait en tant qu'intermédiaire), ce qui signifie que la plupart des bénéfices profite bien aux entreprises manufacturières de l'UE et favorise leur compétitivité.
- Producteurs des Etats tiers : Une suspension des tarifs douaniers implique *erga omnes* une diminution des avantages que l'UE a accordés aux Etats bénéficiant d'accords commerciaux spécifiques, notamment les Etats ACP (via les APE), les PMA (via les TSA), et les Etats des Balkans occidentaux. Cependant, l'analyse suggère que cet impact est en pratique limité, dans la mesure où la majorité des suspensions concerne des biens qui ne sont pas produits dans ces pays ou à des prix non compétitifs. Il n'est néanmoins pas exclu qu'un petit nombre de producteurs particuliers de ces pays ait été négativement affecté (bien que l'évaluation n'ait pas mis à jour d'éléments en ce sens).
- Pouvoir de l'UE dans les négociations d'accords commerciaux : En éliminant de manière unilatérale les droits d'importation sur certains biens, l'UE réduit en théorie son pouvoir de négociation dans les accords commerciaux internationaux, dans la mesure où elle a moins à offrir en retour des concessions consenties par les Etats tiers. Mais cela ne s'est pas fait sentir en pratique dans les négociations récentes, car le flux commercial des produits bénéficiant de suspensions est en règle générale trop faible pour constituer une préoccupation sérieuse pour les parties concernées, et parce que le flux commercial effectif lié au programme est trop opaque pour être utilisé comme un argument de négociation efficace. Néanmoins, dans quelques cas particuliers, les suspensions affectent une plus grande proportion des échanges (notamment avec le Japon), ce qui – si ce point était soulevé lors des négociations – pourrait potentiellement affecter le pouvoir de négociation de l'UE.
- Coût de gestion du programme : Nous estimons que le besoin en ressources humaines lié à l'administration et à la gestion du programme s'élève à environ 50 ETP au total (y compris les employés de la DG TAXUD et des administrations nationales). Les représentants nationaux ne considèrent pas la tâche qui pèse sur les autorités nationales comme excessive, et les mécanismes d'applications sont généralement considérés comme efficaces. La grande majorité des opérateurs économiques estiment que le coût lié aux demandes est largement inférieur aux bénéfices qui en découlent (bien qu'il arrive parfois que les objections suscitent des discussions, des demandes d'informations et des échanges pesants). A l'évidence, les coûts de gestion du programme pour le secteur public, les charges administratives et les coûts de contrôle imposés aux entreprises sont globalement raisonnables.

Ainsi, bien qu'il existe un certain nombre de préoccupations, et quelques cas (anecdotiques) mettant en évidence des effets négatifs indésirables, ceux-ci ne sont en aucun cas suffisamment préoccupants pour remettre en cause un programme globalement efficace et qui devrait être poursuivi.

### **Améliorations possibles**

Si les tarifs douaniers continuent de se réduire à l'avenir, le rapport coût/avantage du programme est susceptible de se détériorer, et il est possible qu'un jour les bénéfices qui en découlent ne suffisent plus à justifier ses coûts. La situation devrait être réexaminée lorsque les tarifs baisseront à nouveau.

D'ici là, l'évaluation a révélé que dans un certain nombre de domaines, la mise en œuvre du programme pose certaines difficultés pratiques. Les aspects qui devraient être revus incluent :

- La sensibilisation au programme (en particulier pour les PME) : L'évaluation a montré que les « initiés » (c'est-à-dire ceux qui connaissent le programme et ont souvent déjà une expérience des suspensions) considèrent qu'il est assez facile de s'y retrouver et d'obtenir les informations nécessaires sur le système. Cependant, il semble qu'il existe actuellement un certain déséquilibre de l'information : les niveaux de sensibilisation sont en grande partie le fruit des efforts des autorités nationales et des associations de commerce, avec des résultats inégaux. Les entreprises de certains Etats et/ou secteurs, notamment les PME, semblent être moins bien informées des possibilités offertes par le programme.

L'UE devrait prendre des mesures pour s'assurer que toutes les entreprises manufacturières de l'UE (y compris les PME) aient la possibilité d'être informées.

La Commission européenne devrait également s'interroger sur l'opportunité et la manière d'associer davantage et de manière plus homogène les associations de commerce dans sa communication relative au programme.

Il pourrait également s'avérer judicieux de développer un guide simple et pratique qui expliquerait le programme de façon directe et claire, y compris la manière dont les entreprises peuvent soumettre une demande.

- Transparence vis-à-vis des producteurs de l'UE : De la même manière, une approche plus homogène devrait être recherchée dans la manière dont les entreprises de l'UE sont informées des demandes de suspensions qui peuvent leur être préjudiciables (parce qu'elles sont à même de fournir le produit en question), pour leur permettre de faire état de leurs objections le cas échéant.

La Commission européenne devrait consulter les membres du GTET en vue d'identifier comment améliorer la manière dont les informations relatives aux suspensions sont communiquées aux entreprises concernées. Dans la mesure où certains Etats membres semblent s'acquitter très efficacement de cette tâche s'agissant de « leurs » entreprises, la recherche d'une application plus homogène des bonnes pratiques dans ce domaine pourrait être utile.

- Traitement des objections : En principe, les motifs pouvant justifier une objection semblent assez clairs : lorsqu'un producteur de l'UE est capable de produire « un produit identique, équivalent ou substituable », la suspension ne doit pas être accordée. Mais en pratique, la définition de ce qui constitue un

produit équivalent ou substituable s'accompagne souvent de débats houleux. Le manque d'homogénéité dans l'approche de ces questions entraîne non seulement une frustration et une perte de temps considérables, mais aussi des préoccupations quant au caractère adéquat, équitable et transparent du processus de décision.

La Commission devrait consulter les autres parties concernées (y compris les membres du GTET) afin de développer une définition de ce qui constitue, au regard des suspensions autonomes, « un produit équivalent ou substituable ». Des questions similaires se posent depuis longtemps dans d'autres domaines, notamment en droit de la concurrence, afin d'éviter de devoir systématiquement « repartir de zéro ».

- Toujours sur ce sujet des objections et du processus de décision, un nombre important de membres du GTET ont fait part de leurs préoccupations relatives aux situations dans lesquelles un autre service de la Commission européenne (tel que DG AGRI) soulève des objections contre une demande de suspension particulière. Dans ces cas, un manque de transparence peut être déploré, qui peut susciter des doutes parmi les délégués.

Il conviendrait de clarifier dans quelles circonstances et sous quelles conditions les demandes de suspension seront rejetées « si l'intérêt de l'Union le justifie ». Les services de la Commission qui souhaitent s'opposer à une demande devraient être tenus d'exposer clairement leurs motifs et, si ses membres le souhaitent, de défendre leur position devant le GTET.

- En particulier si la sensibilisation au programme est améliorée (voir ci-dessus), le nombre de demandes devrait augmenter, ce qui aura des répercussions sur le temps qui sera nécessaire aux autorités pour les traiter et leur apporter une réponse. Dans la mesure où une majorité des membres du GTET est défavorable à une augmentation du nombre des réunions, d'autres moyens devront être trouvés pour traiter une partie des travaux du groupe.

La DG TAXUD et le GTET devraient étudier si et comment les problèmes techniques et linguistiques (portant principalement sur la description des produits et leur traduction et leur classification) pourraient être traités en dehors des réunions du GTET. En particulier, un recours plus large à CIRCABC pourrait être envisagé, afin que le GTET se concentre sur les questions véritablement essentielles.

Enfin, il convient de se pencher sur les appels de plusieurs parties prenantes à « ouvrir » davantage le système, par exemple en réduisant le seuil d'économies de droits ouvrant droit à une demande, en donnant un rôle plus grand aux associations de commerce dans le processus de décision, ou encore en mettant un terme aux contrôles de l'utilisation finale. Ces approches, combinées à une meilleure sensibilité au programme parmi les entreprises manufacturières européennes, devraient permettre d'augmenter le nombre de demandes, et d'accroître ainsi l'impact du programme sur la compétitivité de l'économie européenne.

Cependant, une plus grande ouverture ne va pas sans inconvénients. Les suspensions tarifaires autonomes sont une exception au cours normal des affaires. Comme nous l'avons relevé plus haut, le programme implique des coûts, et certaines demandes (et objections) peuvent être complexes et prendre un certain temps à traiter, afin d'assurer qu'il ne soit porté préjudice à aucun intérêt de l'UE. C'est pourquoi il pourrait ne pas être opportun que les autorités aient à traiter d'un nombre élevé de demandes

de suspension d'une faible valeur, pour lesquelles les coûts pourraient excéder les bénéfices.

En outre, à la lumière de l'argument soulevé ci-dessus (un intérêt moindre des suspensions au fur et à mesure que le commerce de l'UE se libéralise), il pourrait ne pas être opportun de chercher à maximiser l'utilisation du système. Au contraire, la question centrale devrait être le caractère équitable du programme – c'est-à-dire des possibilités équivalentes, pour toutes les entreprises de l'UE, de tirer profit du système, et une sécurité juridique et une transparence les meilleures possibles s'agissant de l'information des entreprises susceptibles de soulever des objections, des critères devant être respectés pour déposer des objections et de la manière dont celles-ci seront traitées. Si le caractère équitable du programme est garanti, il n'y a pas de véritable raison de le « libéraliser ». Tant que les critères sont clairs et transparents (voir le point traitant de la substituabilité ci-dessus), la Commission ne devrait pas hésiter à rejeter des demandes qui pourraient être préjudiciables à certaines entreprises européennes tout en favorisant d'autres.

## Zusammenfassung

### **Das Schema der autonomen Aussetzung von Zöllen des Gemeinsamen Zolltarifs („Autonome Zollaussetzungen“)**

Das System der autonomen Zollaussetzungen bietet den Herstellern in der EU die Möglichkeit, Rohstoffe, Halbfertigprodukte und Komponenten, die innerhalb der EU nicht verfügbar sind, ohne oder unter geringerer Zollbelastung zu importieren. Es wird davon ausgegangen, dass die dadurch erzielten Einsparungen von Kosten die Wirtschaft in der EU stimulieren sowie die Wettbewerbsfähigkeit von Unternehmen steigern, und diesen ermöglicht, Arbeitsplätze zu erhalten und zu schaffen, ihre Strukturen zu modernisieren usw.

Grundsätzlich können alle in der EU ansässigen Unternehmen eine Zollaussetzung beantragen, sofern sie darlegen können, dass die entsprechenden Waren eine Reihe bestimmter Bedingungen erfüllen. Die Unternehmen übermitteln ihre Anträge denen im jeweiligen Mitgliedsstaat zuständigen Behörden, die diese (sowie die eventuell relevanten Einwände) annehmen und an die Europäische Kommission weiterleiten. Die Kommission prüft die Anträge mit Hilfe der Gruppe "Wirtschaftliche Tariff Fragen" (nachfolgend „ETQG“ / „Economic Tariff Questions Working Group“). Die Verordnungen für die Gewährung, Verlängerung, Änderung oder Streichung der Aussetzungen werden zweimal im Jahr auf Vorschlag der Kommission durch den Rat verabschiedet.

Bis 2011 waren mehr als 1.600 Produkte einer Aussetzung zugeordnet. Zwischen 2007 und 2011 belief sich der Wert der im Rahmen von Zollaussetzungen eingeführten Waren auf durchschnittlich 18,4 Milliarden € pro Jahr und der Wert der von den Unternehmen dadurch eingesparten Einfuhrzölle (und gleichzeitig die Minderung der Zolleinnahmen der EU) auf 944 Millionen € pro Jahr. In diesem Zeitraum fielen 80% der von einer Zollaussetzung betroffenen Importe in zwei Gruppen: Mikroelektronik-/Mechanik<sup>7</sup> und Chemie.<sup>8</sup>

### **Grundprinzipien und Ziele der Evaluierung**

In einer Mitteilung von 2011 hat die Kommission ihre Absicht erklärt, eine Studie „über die Auswirkungen der autonomen Zollaussetzungen [...] auf die EU-Wirtschaft“<sup>9</sup> aufzulegen, mit dem Ziel, empirisch belegbare Entscheidungsprozesse zu fördern, den wirtschaftlichen und gesellschaftlichen Nutzen des Systems (bzw. einen Mangel daran) zu veranschaulichen und Verbesserungsmöglichkeiten zu erarbeiten. Vor diesem Hintergrund wurde Ende 2012 diese externe Evaluierung von der Kommission (GD TAXUD) in Auftrag gegeben, um das Schema für Zollaussetzungen im Hinblick auf die fünf Jahre zwischen 2007 und 2011 zu untersuchen und folgende Aspekte zu beurteilen:

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<sup>7</sup> Die Mikroelektronik-/Mechanik-Gruppe umfasst Produkte der TARIC-Kapitel 84, 85, 87, 90, 91, 94, 95 und 96

<sup>8</sup> Die Chemie-Gruppe umfasst Produkte der TARIC-Kapitel 27, 28, 29, 32, 33, 34, 35, 37, 38

<sup>9</sup> Mitteilung der Kommission zu den autonomen Zollaussetzungen und Zollkontingenten (2011/C 363/02)

- Auswirkungen der Zollaussetzungen mit Schwerpunkt auf die Wettbewerbsfähigkeit der Unternehmen der EU sowie mögliche nicht gewollte Auswirkungen.
- Durchführung der Regelung, unter Berücksichtigung der Anwendung und des Entscheidungsprozesses, Schwierigkeiten bei der Umsetzung sowie ferner die Art und Weise, wie Unternehmen in der EU über das Schema unterrichtet werden.

## **Herangehensweise und Methoden der Evaluierung**

Die Evaluierung besteht aus einer Kombination von Analysen vorhandener Datenquellen und der direkten Mitwirkung von Begünstigten und Beteiligten, in der Absicht, neue Originaldaten zu erheben. Daraus ergab sich eine Mischung quantitativer und qualitativer Daten, die in Bezug auf die Fragen der Evaluierung (auf der Basis einer Reihe in der Anfangsphase des Projektes definierten Bewertungskriterien und Indikatoren) ausgearbeitet und einer Betrachtung durch verschiedene Methoden („Triangulation“) unterzogen wurden, um zu belastbaren und gut begründeten Ergebnissen und Empfehlungen zu gelangen.

Die wichtigsten Methoden der Evaluierung können wie folgt zusammengefasst werden:

- Sekundäre Marktforschung / Zentrale Datenerhebung: Durchsicht und Analyse der vorhandenen Sekundärdaten aus einer Vielzahl von Quellen, vor allem der EU-Handelsstatistik aus der COMEXT-Datenbank.
- Erhebungen und Umfragen: Für die Erfassung von Informationen und Rückmeldungen von Beteiligten/Betroffenen haben wir drei getrennte schriftliche (online) Befragungsinstrumente verwendet:
  - Einen Fragebogen für nationale Behörden (22 Antworten)
  - Eine Umfrage bei den Unternehmen, die eine Zollaussetzung beantragt haben (122 Einzelantworten).
  - Eine Umfrage zwecks Ermittlung des Wissenstandes von EU-Unternehmen über die Regelung (91 Antworten).
- Eingehende Befragungen: Es wurden 53 halbstrukturierte Interviews mit Vertretern nationaler Behörden, Unternehmen, Wirtschaftsverbände, Interessensvertretern von Ländern, mit denen ein Sonderhandelsabkommen besteht, und Beamten aus verschiedenen Dienststellen der Kommission durchgeführt.
- Fallstudien: Um ein tieferes Verständnis der Auswirkungen der Zollaussetzungen zu gewinnen, wurde eine Serie von 12 Fallstudien durchgeführt. Jede Fallstudie betraf ein Produkt, für das die Einfuhrzölle im Zeitraum zwischen 2007 und 2011 ganz oder zeitweise ausgesetzt wurden bzw. das entsprechende Antragsverfahren in dieser Zeit abgeschlossen wurde. Die Auswahl der Erzeugnisse war für die Gesamtheit der Zollaussetzungen weitgehend repräsentativ.

Durch die Verwendung dieser Methoden und der folgenden „Triangulation“ der Daten aus verschiedenen Quellen gelangte die Evaluierung zu einer ausreichend tragfähigen empirischen Grundlage, die die Beantwortung aller relevanten Fragen und die Ableitung belastbarer Schlussfolgerungen ermöglichte. Dennoch sei angemerkt, dass sich während der Evaluierung eine Vielzahl praktischer Herausforderungen stellten,

aus der gewisse Einschränkungen folgten hinsichtlich der Analyse, die möglich war. Diese betrafen hauptsächlich

- Begrenztheit der vorhandenen Daten, vor allem der Mangel an Handelsdaten für bestimmte Produkte bezogen auf den Zeitraum, *bevor* eine Zollausssetzung bewilligt wurde, sowie der Umstand, dass praktisch kein Mittel zur Hand ist, um in Erfahrung zu bringen, auf welche Geschäftsbereiche die Einfuhren von Waren unter Zollausssetzungen entfallen. Dadurch wird es unmöglich, Wirtschaftsstatistiken unter der Fragestellung zu analysieren, inwieweit Unternehmen davon betroffen sind.
- Während der ganzen Evaluierung war es schwer, mit den Marktteilnehmern Kontakt aufzunehmen und Informationen von Ihnen zu erhalten. Dies lag an einer Reihe von Ursachen, u.a. das Fehlen einer zentralen Datenbank der Antragsteller und eine Zurückhaltung mancher von ihnen, an Umfragen oder Interviews teilzunehmen und Daten zur Verfügung zu stellen (die sie in einigen Fällen als unter das Geschäftsgeheimnis fallend betrachtet haben könnten).

### **Vorzüge (beabsichtigte Hauptauswirkungen) des Schemas**

Die Evaluierung hat ergeben, dass die Hauptgrundlage für das EU-Zollausssetzungsregime weiterhin besteht. In den Fällen, in denen eine Produktion auf dem Binnenmarkt, die geschützt oder gefördert werden kann, fehlt, gibt es keine klare wirtschaftliche Begründung für die Auferlegung von Einfuhrzöllen, mit der Folge, dass sowohl Unternehmen der EU als auch die EU-Wirtschaft in ihrer Gesamtheit von niedrigeren Zollsätzen profitieren.

Die Evaluierung bestätigt die wirtschaftlichen Vorteile für Unternehmen der EU, die von Zollausssetzungen betroffene Importe verarbeiten. Die dadurch entstehenden Kosteneinsparungen können bedeutend sein: Während des von dieser Evaluierung untersuchten Zeitraums (2007-2011) betragen die Kosteneinsparungen für jeden mit Zollausssetzungen verbundenem TARIC-Code im Jahresdurchschnitt ungefähr € 600.000 (wobei es sich innerhalb dieses Durchschnitts enorme Abweichungen finden). Üblicherweise entfallen diese wirtschaftlichen Vorteile an erster Stelle auf eine geringe Anzahl Unternehmen (manchmal lediglich eines), die das betreffende Produkt einführen.

Absolut gesehen waren Deutschland (das knapp unter 25% der von Zollausssetzungen betroffenen Importe ausmachte), Ungarn und die Slowakei die Mitgliedsstaaten, deren Unternehmen am meisten profitierten (d.h. deren Importe im Rahmen der Zollausssetzung den höchsten Gesamtwert darstellten). Relativ gesehen waren die Vorteile für die Unternehmen in der Tschechischen Republik, Ungarn und der Slowakei am größten; in diesen drei Ländern waren mehr als 5% aller Importe von einer Zollausssetzung betroffen.

Die Evaluierung bestätigt auch, dass diese Kosteneinsparungen weitere Vorteile zur Folge haben. Je nach Produkt, Unternehmen und Wirtschaftsbranche führten die Kosteneinsparungen zu einer höheren Profitabilität (oder einer Verringerung der Verluste), niedrigere Kosten für Nutzer/Verbraucher, effizientere Produktionsmethoden, positive Effekte auf die Beschäftigung bzw. eine beliebige Kombination dieser Auswirkungen.

### **Mögliche (ungewollte) negative Auswirkungen**

Daher ist die Regelung betreffend der Zollaussetzungen wirtschaftlich weiterhin gerechtfertigt und erreicht ihr vorrangiges Ziel, die Wettbewerbsfähigkeit der Unternehmen, die davon Gebrauch machen, zu steigern, indem sie ihnen erlaubt, Waren günstiger zu importieren. Dennoch ist es prinzipiell möglich, dass ungewollte Auswirkungen diese Vorteile verringern, ausgleichen oder sogar übertreffen. Die Evaluierung hat folgende mögliche Auswirkungen untersucht:

- Inländische Hersteller: Sofern innerhalb der EU gleiche, gleichartige oder Ersatzwaren produziert werden, sind negative Auswirkungen bei den jeweiligen Herstellern zu erwarten. Die Ergebnisse der Evaluierung lassen vermuten, dass dieses Risiko mit dem derzeitigen Verfahren zur Übermittlung von Einwänden nicht ganz ausgeschlossen werden kann. Folglich kann es vorkommen, dass Zollaussetzungen genehmigt werden, obwohl (potentiell) gleichwertige oder Ersatzprodukte verfügbar wären. Wenngleich dieses Problem nicht verbreitet genug ist, um die wirtschaftliche Begründung der Regulierung insgesamt in Frage zu stellen, gibt es Spielräume für die Verbesserung und Klärung hinsichtlich des besagten Verfahrens, um diese Risiken weiter zu verringern.
- Einbehalten der Gewinne durch die Einführer: Die Evaluierung hat ergeben, dass die große Mehrheit der Unternehmen der EU, die Zollaussetzungen in Anspruch nehmen, die entsprechenden Waren direkt (und nicht durch die Vermittlung einer dritten Partei) einführen, was bedeutet, dass der Großteil der Vorteile tatsächlich den Herstellern in der EU zugutekommen und dazu beitragen, deren Wettbewerbsfähigkeit zu steigern.
- Hersteller in Drittländern: Eine Zollaussetzung *erga omnes* führt zu einer Aushöhlung der bevorzugten Behandlung, die die EU Ländern gewährt, mit denen Sonderhandelsabkommen bestehen, einschließlich den AKP-Staaten (durch Wirtschaftspartnerschaftsabkommen), den wenigsten entwickelten Ländern (durch die *Everything But Arms* – EBA - Regelung) und Ländern im westlichen Balkan. Dennoch legt die Untersuchung nahe, dass die Auswirkungen der Maßnahme in dieser Hinsicht begrenzt sind, da die Mehrzahl der Zollaussetzungen Waren betreffen, für die es in diesen Ländern keine oder keine wettbewerbsfähigen Hersteller gibt. Es kann aber auch nicht ganz ausgeschlossen werden, dass eine Anzahl bestimmter Unternehmen aus diesen Ländern negativ betroffen waren (wenngleich bei der Evaluierung keine Belege dafür gefunden wurden).
- Verhandlungsposition der EU bei Handelsgesprächen: Durch die einseitige Abschaffung von Einfuhrzollen auf bestimmte Güter schwächt die EU theoretisch ihre Verhandlungsposition bei internationalen Handelsgesprächen, weil sie dadurch weniger zu bieten hat im Austausch für Zugeständnisse von Drittländern. Dennoch hat sich dies bei den Handelsgesprächen der letzten Jahre nicht bewahrheitet, weil der von Zollaussetzungen tatsächlich betroffene Handelsverkehr zu gering ist, um diesbezüglich eine signifikante Rolle zu spielen, und die gegenwärtigen Handelsströme im Rahmen der Regelungen zu verborgen sind, um wirksam als Verhandlungsinstrument eingesetzt zu werden. Trotzdem betreffen Zollaussetzungen in einigen bestimmten Fällen einen größeren Anteil des Handels (vor allem mit Japan), der – sollte er bei Handelsgesprächen vorgebracht werden – die Position der EU schwächen könnten.
- Verwaltungskosten der Regelung: Unseren Schätzungen zufolge beträgt der Personalaufwand für die Durchführung und Verwaltung der Maßnahme



insgesamt ungefähr 50 Vollzeitbeschäftigte (einschließlich der Beschäftigten bei der GD TAXUD und den nationalen Behörden). Die Vertreter der Mitgliedsstaaten betrachten die Kosten für die nationalen Behörden als nicht überhöht, und die praktische Umsetzung erwies sich insgesamt als effizient. Die große Mehrheit der Befragten war der Meinung, dass die Kosten der Regelung im Vergleich zu den Vorteilen verschwindend gering sind (wenngleich es Fälle gibt, in denen Einwände zu beschwerlichen Auseinandersetzungen, Schriftverkehren und Anfragen führen können). Insgesamt hielten sich sowohl für den öffentlichen Sektors die Kosten im Hinblick auf die Durchführung der Maßnahme als auch für die Unternehmen der Verwaltungsaufwand und die Kosten, die mit der Einhaltung der Rechtsvorschriften verbunden sind, in akzeptablem Rahmen.

Obwohl es einige Bedenken und wenige (eher anekdotisch anmutende) Belege für ungewollte, negative Auswirkungen in manchen Fällen gibt, sind diese bei weitem nicht bedeutend genug, um die allgemeine Effektivität und Rechtfertigung der Maßnahme anzuzweifeln, die daher fortgesetzt werden sollte.

### **Verbesserungspotentiale**

In der Zukunft, falls/sobald die Zollsätze weiterhin sinken sollten, wird das Kosten-Nutzen-Verhältnis wahrscheinlich abnehmen, und schließlich eine Phase erreicht werden, in der sich die Kosten gegen die Vorteile nicht mehr rechnen. Es wird empfohlen, die Situation erneut zu überprüfen, sofern die Zollsätze weiter fallen.

Gegenwärtig hat die Evaluierung ergeben, dass hinsichtlich der Durchführung der Maßnahme eine Anzahl von Bereichen existiert, die zu praktischen Schwierigkeiten führen können. Es sollten unter anderem folgende Aspekte überprüft werden:

- Sensibilisierungsmaßnahmen (vor allem unter kleinen und mittelständischen Unternehmen, nachf. „SMEs“): Die Evaluierung hat ergeben, dass ‚Insider‘ (d.h. die, die über die Maßnahme Bescheid wissen und in vielen Fällen schon Erfahrungen mit Zollaussetzungen gehabt haben) mit dem System relativ leicht zurechtkommen und die nötigen Informationen finden. Dennoch besteht anscheinend derzeit ein Ungleichgewicht in der Informationsverteilung: Wie gut die Unternehmen informiert sind, hängt sehr von den Bemühungen der Behörden und Wirtschaftsverbänden der einzelnen Staaten ab, was zu sehr unterschiedlichen Ergebnissen führt. In manchen Ländern und/oder Wirtschaftsbranchen verfügen die Unternehmen und vor allem die SMEs tendenziell über weniger Kenntnis bezüglich der Möglichkeiten, die die Maßnahme bietet.

<p>Die EU sollte dafür sorgen, dass alle Hersteller in der EU (einschließlich der KMUs) Gelegenheit erhalten, ausreichend unterrichtet zu sein. Die EU sollte erwägen, ob und wie Wirtschaftsverbände weitgehender und beständiger in die Kommunikation der Maßnahmen miteinbezogen werden können. Es scheint lohnenswert, über die Entwicklung einer einfach gegliederten Anleitung nachzudenken, die in klarer und verständlicher Weise darlegt, was die Maßnahme bewirkt und wie Unternehmen daran teilnehmen können.</p>
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- **Transparenz gegenüber den Herstellern in der EU:** Ähnlich dem vorherigen Punkt besteht ebenfalls das Erfordernis, einen einheitlicheren Ansatz zu entwickeln, der darauf abzielt, Unternehmen auf Anträge betreffend

Zollaussetzungen hinzuweisen, die ihnen schaden könnten (weil sie in der Lage sind, die fraglichen Waren herzustellen), und der es ihnen ermöglicht, Einwände zu erheben in Fällen, in denen es gerechtfertigt erscheint.

Die Europäische Kommission sollte sich mit den Angehörigen der ETQG beraten, um zu ermitteln, auf welchen Wegen eine bessere Streuung der Information betreffen Anträge auf Zollausssetzungen unter der in Frage kommenden Unternehmen erzielt werden kann. Da einige Unternehmen dies anscheinend sehr erfolgreich im Hinblick auf "ihre" Unternehmen praktizieren, ergibt sich womöglich der Rahmen für eine einheitlichere Verfahrenspraxis in dem Bereich.

- Behandlung von Einwänden: Im Prinzip erscheinen die Gründe für Einwände in hohem Masse einleuchtend: Dort, wo ein Hersteller in der EU in der Lage ist, gleiche, gleichwertige oder Ersatzwaren zu liefern, wird eine Aussetzung nicht gewährt. Tatsächlich wird in der Praxis die Frage, was genau eine gleichwertige Ware oder eine Ersatzware ausmacht, oftmals Gegenstand ausgiebiger Erörterungen. Die Schwierigkeiten, diesen Auseinandersetzungen angemessen zu begegnen, führt nicht nur zu einem gewissen Maß an Enttäuschung und Zeitverlust, sondern wirft gleichfalls Fragen auf nach der Angemessenheit, Fairness und Transparenz des Entscheidungsprozesses.

Die Europäische Kommission sollte sich mit anderen Ansprechpartnern (einschließlich Angehörigen der ETQG) beraten und eine Definition entwickeln, was, im Sinne der autonomen Zollausssetzungen, eine gleichwertige oder Ersatzware ausmacht. Ähnliche Fragen sind schon vor langer Zeit in anderen Bereich gestellt worden, einschließlich des Wettbewerbsrechts, so dass kein Erfordernis bestehen sollte, "das Rad neu zu erfinden".

- Ebenfalls mit Blick auf die Einwände und den Entscheidungsprozess hat eine erhebliche Anzahl von Angehörigen der ETQG Zweifel ausgedrückt in Bezug auf Sachverhalte, bei denen eine andere Kommissionsdienststelle (wie z.B. GD AGRI) Vorbehalte gegen einen bestimmten Antrag auf Aussetzungen vorgebracht hat. In Fällen solchen kann ein Mangel an Transparenz bestehen, der zu Unstimmigkeiten unter den Delegierten führt.

Es sollte geklärt werden, unter welchen Umständen und in welchen Zusammenhängen einem Antrag auf Zollausssetzungen nicht stattgegeben wird, weil "das Interesse der Union etwas anderes erfordert". Kommissionsdienststellen, denen daran gelegen ist, gegen einen Antrag zu stimmen, sollten dazu aufgefordert werden, ihre Gründe klar darzulegen und, falls von den Mitgliedern verlangt, ihre Auffassung in der ETQG zu verteidigen.

- Vor allem wenn die Bekanntheitsgrad der Maßnahme weiter wächst (siehe oben), gilt es als wahrscheinlich, dass die Anzahl der Anträge zunimmt, was Auswirkungen hat auf die Zeit, die Behörden aufwenden müssen, um sie zu verarbeiten und zu einer Entscheidung zu gelangen. Da die meisten Angehörigen der ETQG gegen eine Erhöhung der Zahl von Sitzungen eingestellt sein werden, sollte man Wege finden, mit einem Anfall von Mehrarbeit der Gruppe durch andere Mittel zu begegnen.

Die GD TAXUD und die ETQG sollten untersuchen, ob und wie technischen und sprachlichen Fragen (hauptsächlich zusammenhängend mit den Warenbeschreibungen und deren Übersetzung oder die Einreihung) außerhalb von Sitzungen der ETQG begegnet werden können. Insbesondere sollten Wege erdacht werden, wie CIRCABC in einem größeren Umfang genutzt werden kann, um auf diese Weise genügend Zeit für die wirklich wichtigen Fragen während der Sitzung vorzusehen.

Schließlich ist es wert über die Äußerungen zahlreicher Beteiligter nachzudenken, dass System weiter zu öffnen, z.B. durch die Absenkung der Schwelle der eingesparten Zölle, ab der ein Antrag wirksam wird, oder durch die Abschaffung der besonderen Verwendung unter zollamtlicher Überwachung. Die diesbezügliche Erwartungshaltung lautet, dass solche Schritte, in Verbindung mit einem erhöhten Bewusstsein hinsichtlich des Schemas innerhalb des produzierenden Gewerbes der EU, zu einer höheren Anzahl an Anträgen, und demzufolge zu einer größeren Auswirkung auf die Wettbewerbsfähigkeit der EU-Wirtschaft führt.

Freilich unterliegt das vorgenannte auch Einschränkungen. Autonome Zollaussetzungen stellen eine Ausnahme des Normalzustandes dar. Wie bereits oben ausgeführt, ist die Verwaltung des Verfahrens mit Kosten verbunden, und die Handhabung einiger Anträge kann sich als schwierig und zeitaufwendig herausstellen, weil sie einer sorgfältigen Prüfung bedürfen, damit gewährleistet wird, dass die Interessen der EU nicht beeinträchtigt werden. In Anbetracht dessen mag es wenig wünschenswert erscheinen, dass die Behörden sich mit einer breiteren Zahl von Anträgen mit niedrigem Wert beschäftigen müssen, deren Bearbeitungskosten letztlich den wirtschaftlichen Nutzen übersteigen.

Ferner mag es im Lichte der oben ausgeführten Argumentation (wahrscheinliche Abnahme der Bedeutung von Zollaussetzungen im Zuge der Liberalisierung des EU-Handels) nicht ratsam erscheinen, den Versuch zu unternehmen, die Nutzung des Systems weiter auszudehnen. Stattdessen sollte das Hauptaugenmerk auf Fairness gerichtet werden - das bedeutet: Gleiche Chancen für alle Firmen in der EU, von dem System zu profitieren, sowie ein Höchstmaß an Rechtssicherheit und Transparenz in Bezug auf die Sensibilisierung potentieller Einwanderer, die Kriterien für Einwände sowie die Frage nach deren praktischer Anwendung. Wird dies gewährleistet, wird der Spielraum zur "Liberalisierung" des Schemas relativ klein ausfallen. Solange die Kriterien klar und transparent ausgelegt werden (siehe obengenannten Punkt über die Austauschbarkeit), sollte die Kommission nicht zögern, Anträge abzulehnen, die das Risiko bergen, einigen Unternehmen zu schaden, während sie anderen nützen.

## 1. Introduction

This report was submitted to the European Commission's Directorate General for Taxations and Customs Union (DG TAXUD) by The Evaluation Partnership (TEP) and Europe Economics (EE) in the context of the *Evaluation of the Scheme for the Autonomous Suspensions of CCT Duties*.

This report consists of the following main sections:

- Section 2 summarises the evaluation's purpose and approach, and provides an overview of the main methods used to collect and analyse data.
- Section 3 introduces the subject of the evaluation, namely the EU's autonomous tariff suspensions scheme, including the scheme's intervention logic and key statistics related to the scheme's functioning.
- Sections 4 and 5 present the main findings of the evaluation, structured around the evaluation questions defined in the Terms of Reference:
  - Section 4 discusses the *process* (i.e. the way in which the scheme is implemented), including communication arrangements, the application, objection and decision-making processes, and end-use controls.
  - Section 5 assesses the scheme's *impacts*, including its main intended impacts (on the competitiveness of EU enterprises, including SMEs) as well as key possible unintended impacts (on producers from third countries with special trade agreements, and on the EU's trade negotiations).
- Section 6 presents overall conclusions regarding the scheme's continued relevance and justification, as well as recommendations for improvements.
- Technical annexes (submitted as a separate document) contain more detailed evaluation findings, structured by data collection method.

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## 2. Evaluation purpose and approach

Autonomous tariff suspensions permit the total or partial waiver of the normal duties applicable to goods imported to the EU during the period of validity of the measure and for an unlimited quantity. As such, suspensions constitute an exception to the normal state of affairs (application of normal customs duty rate fixed by the CCT), and are only granted in specific circumstances. The aim of tariff suspensions is to enable EU businesses that use certain raw materials, semi-finished goods or components as part of their production processes that are not available or produced within the EU customs territory to import these at zero or reduced duty rates. No suspensions can be granted for finished goods.

As per a Communication<sup>10</sup> published by the Commission in 2011, which provides an overview of the scheme, its policy context, guidelines for its implementation and administrative arrangements, the specific objectives of the suspensions are:

- i) to stimulate economic activity within the Union,
- ii) to improve the competitive capacity of these enterprises, and, in particular,
- iii) to enable the latter to maintain or create employment, modernise their structures, etc.

The suspension system was already in place as early as 1971. Similar schemes exist in many other countries, including the United States, where tariff suspensions are adopted biennially through the so-called miscellaneous tariff bill (MTB). In the EU, more than 1,600 products were under suspension as of late 2011.

### 2.1. Rationale, objectives and scope of the evaluation

Despite its long-life span of more than 40 years and its important effect on the EU budget (the Commission estimates the annual amount of CCT duties that are forgone due to suspensions at €1 billion), no evaluation of the autonomous CCT duty suspension system has been carried out during this period. The 2011 Communication announced the Commission's intention to remedy this shortcoming by launching a study "on the impact of autonomous tariff [...] suspensions on the EU economy", including "the impact on small and medium-sized enterprises (SMEs)",<sup>11</sup> in order to contribute to evidence-based policy-making, demonstrate the economic and societal value (or lack thereof) of the system, and identify possible improvements.

With this in mind, the present external evaluation was commissioned by the European Commission (DG TAXUD) in late 2012, to cover the suspensions scheme during the five-year period from 2007 to 2011 and assess:

- The impacts resulting from the suspensions granted (i.e. in force) under the system: The primary focus is on assessing the impacts against the system's objectives, in particular the competitiveness of EU industry. However, the evaluation should also assess certain possible unintended effects, such as impacts on third country producers, or on the leverage of the EU in international trade negotiations.
- The way in which the system is implemented: This includes the decision-making process and its effectiveness, efficiency and transparency, as well as

<sup>10</sup> European Commission: Communication concerning autonomous tariff suspensions and quotas (2011/C 363/02), paragraph 2.4.4.

<sup>11</sup> Ibid., paragraph 1.3.

other administrative aspects such as the application process (including administrative burdens), issues related to enforcement (in relation to suspensions with end-use controls), as well as communication tools and processes.

The exact questions the evaluation was mandated to answer, as formulated by DG TAXUD and re-ordered by the evaluation team, are shown in the table below.

**Table 2.1: Evaluation questions and criteria**

No.	Evaluation area	Evaluation Question	Evaluation criteria
1	Process	To what extent is the <b>communication</b> on the suspension scheme at EU and national levels effective? ( <b>Awareness</b> )	Effectiveness - efficiency
2		To what extent are the <b>delivery mechanisms efficient</b> ? What improvements, if any, are needed?	
3		To what extent is the <b>decision making process</b> of tariff suspension <b>effective</b> and <b>efficient</b> ? To what extent is it transparent? What improvements, if any, are needed?	
4		To what extent has the scheme increased the <b>enforcement efforts of national administrations</b> ? What improvements can be made to reduce <b>administrative burdens on economic operators</b> ?	
5	Impact	To what extent has the tariff suspension scheme boosted the competitiveness <b>of the EU enterprises</b> ?	Effectiveness- Efficiency
6		To what extent has the tariff suspension scheme helped to create <b>conditions of economic growth for the SMEs</b> ?	
7		To what extent has the tariff suspension scheme generated <b>positive and negative effects on producers</b> from countries with special trading agreements, in particular countries eligible for EBA and EPA schemes and the Western Balkans?	Coherence
8		To what extent do the suspensions affect the <b>leverage of the EU in trade negotiations</b> with third countries?	
9	Overarching	Despite the downward trend of the tariffs rates, the No of applications for a suspension scheme has been growing. To what extent is the <b>tariff suspension scheme still justified</b> ?	Relevance

## 2.2. Evaluation approach and methods

As evident from the preceding text, the evaluation is to serve a dual purpose: it is both *summative* (i.e. focus on the legitimacy of the tariff suspensions scheme by providing an objective assessment of its quality or value) and *formative* (i.e. facilitate learning in order to help improve the scheme). In order to meet these dual objectives, the chosen approach consists of a combination of analysis of data from existing sources, and direct engagement of beneficiaries and stakeholders to generate new primary data. This resulted in a combination of quantitative and qualitative data that was mapped (in accordance with a series of judgment criteria and indicators defined during the project's inception phase) to the different evaluation questions and triangulated to arrive at robust and well-founded conclusions and recommendations.

The main evaluation methods used can be summarised as follows:

### Desk-based research

Over the course of the assignment, we reviewed and analysed existing secondary data from a variety of sources. Most of this was quantitative data, in particular statistics on trade flows and tariff suspensions, which were employed to contribute to the assessment of the suspension scheme's impacts. We compiled and assessed EU trade data from COMEXT at different CN code levels (including the 10-digit data for suspended products, which is not publicly available), in order to understand inter alia the (absolute and relative) volumes of imports to the EU that benefit from the suspensions scheme, including the types of products and their countries of origin.

### Surveys and questionnaires

In order to collect input and feedback from interested / affected parties, we used three separate online / written consultation tools:

- Questionnaire for national authorities: A questionnaire was sent to the competent national authorities in all 27 EU Member States that are involved in the administration and decision-making process of the suspension system (usually the national suspensions contact points who also participate as delegates in the ETQG). The purpose of this questionnaire was to compile data mainly for the evaluation of the *process*, i.e. the implementation of the scheme including the delivery mechanisms and decision making. The questionnaire was sent in April 2013; 22 national authorities responded.
- Survey of applicant companies: An invitation to participate in an online survey was sent (either directly or via the authorities of the Member State in question) to companies that successfully applied for a new suspension or a prolongation of an existing suspension between 2007 and 2011. This survey served a dual purpose: companies were asked to provide information both on the *impact* the suspension has had on their business, and on their experience of the *processes* which they had first-hand experience with (communication, application, objection, decision-making and/or end-use controls). The survey was live in May and June 2013; a total of 122 unique responses were received, 67 of which were complete (i.e. answered all questions).

- **Awareness survey of EU businesses:** Another survey was launched to examine awareness of the scheme amongst EU manufacturing businesses. It consisted of a very brief online questionnaire, which was distributed to companies across Member States in June and July 2013 with the assistance of EU-level and national business associations, which were asked to forward it to their member companies and encourage them to participate. In spite of the evaluation team's best efforts to obtain buy-in from business associations, only 91 responses were received, mostly from large enterprises. The results are unlikely to be representative of the totality of businesses in the EU (see also the next section for more on caveats and limitations).

### In-depth interviews

The evaluation team also conducted a series of 53 semi-structured interviews to complement the quantitative information obtained through the surveys / questionnaires. Most interviews were completed over the telephone. The purpose of the interview programme was mainly to generate detailed qualitative data on the *implementation* of the scheme, challenges and opportunities, and possible areas for improvements. To a lesser extent, interview data also contributed to exploring the (intended and unintended, actual and potential) *impacts* of the suspensions scheme. The main groups of interviewees are shown in the table below.

**Table 2.2: Overview of interviews conducted as part of the evaluation**

Stakeholder group	Interviews conducted*	Notes
<b>National authorities:</b>	<b>19</b>	
ETQG members	14	
Customs authorities	5	Not foreseen in original methodology; added to further explore end-use controls
<b>Economic operators:</b>	<b>24</b>	
Companies that have (successfully and/or unsuccessfully) applied for suspensions, and/or raised an objection	16	Includes two customs agents and 14 manufacturing companies based in the EU, drawn mostly from survey respondents who had volunteered to be interviewed.
EU trade associations of relevant industries	8	Several associations declined interviews.
Organisations representing the interests of <b>countries with special trading agreements</b>	<b>3</b>	Interviews conducted with CEFTA, UNCTAD and UNECA. ACP was unavailable for comment.
<b>EC officials:</b>	<b>7</b>	
DG AGRI	1	
DG DEVCO	1	
DG ENTR	1	
DG TAXUD	1	
DG TRADE	3	

\* Includes 13 interviews conducted during the inception phase



## Case studies

Finally, in order to allow the evaluation team to gain a deeper understanding of the impacts of the tariff suspensions scheme than was possible through desk research and questionnaires only, a series of 12 case studies was carried out. Each case study focused on one product for which the import duties were suspended for all or part of the period from 2007 to 2011, or which completed the application process during this period. The sample of products was selected to be broadly representative of the wider universe of suspensions.

For each case study, the evaluation team undertook an in-depth review of the available statistical data, including volumes and values imported, main exporting and importing countries, for the suspended product (10-digit CN code) as well as for the broader product category (8-digit CN code level). In addition, interviews were conducted with economic operators (in particular the applicant company) in order to shed further light on the use and effects of the suspension. In this way, the case studies helped the evaluation team to complement, interpret and illustrate the data gleaned through the other methods, by looking at a series of concrete examples.

For more details on each of these methods, please refer to the respective technical annexes.

### 2.3. Challenges and limitations

When it came to collecting and analysing data, the evaluation faced a number of practical challenges that led to certain limitations in the evidence base, which should be taken into account when using and interpreting the results. These were:

1. Limitations of the available trade data: The European Commission provided the evaluation team with a comprehensive data set on imports of goods for which the tariffs were suspended. However, a 10-digit CN code for such products is only created at the time that the suspension is granted; before this, imports of the good in question are declared under the broader product category (8-digit CN code). Therefore, a comparative analysis of trade flows *before and after* the suspension comes into force is not possible, except in the (rare) cases where the tariff is suspended for an entire product category (at 8-digit level).
2. Universe of beneficiaries unknown: While it was straightforward for us to identify the applicants for a tariff suspension, in many cases a number of other firms would benefit from the scheme (i.e. import and use duty-suspended goods). Unfortunately, it is not possible for us to identify these non-applicant beneficiaries through desk-based research and so we have an incomplete picture of the universe of companies that benefit from the scheme. Without this knowledge, it is not possible to conduct any meaningful analysis of business data in order to attempt to determine and attribute the impact of the scheme on beneficiaries' performance. The key reason for this is that such an analysis would require a comparison between firms that benefited from the scheme and those that did not. However, the fact that we could not reliably identify all firms that had benefitted from the scheme made this type of analysis infeasible. The evaluation therefore had to rely on self-reported data from known beneficiaries (applicants) who were willing to participate in order to

assess how the cost savings from the suspensions affected key variables such as profits, prices, and employment.

3. Collaboration from economic operators: Throughout the evaluation, it has been difficult to engage with and collect input from economic operators. This was due to a combination of factors, including: (1) the lack of a central database of applicants (which meant that the evaluation team had to obtain such data from national authorities, or rely on these to forward survey invitations); (2) the difficulty of identifying and reaching the most appropriate member of staff within relevant companies; (3) a reluctance on the part of economic operators to invest time in an activity (such as completing a survey or interview) with no immediate benefits; and (4) in some cases, a reluctance to share data that may be considered commercially sensitive. As a result, the number of complete responses to the applicant survey is lower than we had hoped for. The number of interviews conducted with companies *other than successful applicants* (as part of the interview programme and the case studies) is also lower than anticipated. This is in spite of the intense effort by members of the evaluation team to identify interviewees / survey respondents and secure their co-operation via numerous emails and telephone calls.
4. Awareness survey: As noted from the outset, the awareness survey was never going to be representative, as the evaluators had to rely on the co-operation of business associations to disseminate the survey among their members, and thus had no control over the sample. Therefore, it was always expected that, depending on the ability and willingness of associations to disseminate the survey among their members, certain countries and/or sectors would likely be over or under-represented. Furthermore, we could not be certain who in the targeted businesses would receive the survey invitation, and the extent to which they were actually responsible for matters related to international trade and customs. These problems (which were anticipated) were further exacerbated by the apparent lack of co-operation by most of the 50 EU trade associations that were contacted. Although the evaluation team attempted to mitigate this by contacting national SME associations in the Member States directly, the response rate that was achieved remained very low. Consequently, the results of the awareness survey should not be taken at face value – they come from a very small sample that is likely to be skewed by a significant selection bias.

These data limitations meant that certain analyses could not be carried out quite to the extent hoped for. Nonetheless, following the triangulation of data from different sources and methods, overall the evidence base was sufficient to answer all the pertinent evaluation questions and enable us to draw robust conclusions.

### 3. The EU suspensions scheme

#### 3.1. The scheme for the suspensions of autonomous CCT duties – key features

As noted previously, the autonomous suspensions scheme is intended to provide EU manufacturing businesses with an opportunity to import raw materials, semi-finished goods or components that are not available within the EU at zero or reduced duty rates. The cost savings from this are expected to “stimulate economic activity within the Union, to improve the competitive capacity of these enterprises and, in particular, to enable the latter to maintain or create employment, modernise their structures, etc.”<sup>12</sup>

In principle, any business located in the EU can apply for a tariff suspension, provided it can demonstrate that the good in question fulfils the specific requirements. Most importantly, suspensions cannot be granted for finished goods, or for goods that are available from within the EU. The Commission’s communication notes that, for all applications for tariff suspensions “the economic reasons given should be assessed in relation to the general interest of the Union”.<sup>13</sup> Very broadly speaking, the application and decision-making process can be summarised as follows:

- Companies submit applications to the designated national authorities in their respective Member States, using a common form developed by the European Commission (and annexed to the above-mentioned Communication).
- The Member States collect applications, check that they fulfil a series of conditions (inter alia that they are accompanied by all the documentation required for a thorough examination), and transmit them to the European Commission twice per year (in March and September).
- The Member States are also responsible for collecting and transmitting objections in cases where a company argues that an identical, equivalent or substitute product is available from within the EU (or Turkey), and the suspension should therefore not be granted. In such cases, the opposing and requesting companies are expected to enter into contact to attempt to clarify the situation and, where appropriate, find a compromise solution.
- The Commission examines the requests (along with any remaining objections) with the aid of the opinion of the Economic Tariff Questions Group (ETQG), which includes representatives of all EU Member States as well as Turkey. The ETQG meets at least three times per round (i.e. six times per year) to discuss the requests.
- Regulations granting new suspensions, as well as prolonging, modifying or eliminating existing ones, are adopted by the Council – on the basis of a Commission proposal – twice per year, so as to enter into force on 1 January or 1 July of each year.
- Once granted, suspensions are usually valid for five years. After this period, any suspension that has had duty savings of more than €20,000 (reduced to €15,000 from 2013) in the last 12 months is automatically renewed by the European Commission; if this is not the case a renewal request needs to be made.

<sup>12</sup> European Commission: Communication concerning autonomous tariff suspensions and quotas (2011/C 363/02), paragraph 2.4.4

<sup>13</sup> Ibid., paragraph 2.4.2.

It is important to note that certain suspensions (currently around 300) are subject to end-use control, meaning that they are granted on condition that the imported goods are put to a prescribed use. Where applicable, the designated end-use is included in the product description of the Regulation granting the suspensions and also at TARIC level.<sup>14</sup>

### 3.2. The scheme's intervention logic

An intervention logic is an evaluation tool that helps to clarify the objectives of a policy or programme and translates them into a hierarchy of expected effects that can be evaluated. It also identifies at which stages of the intervention logic unintended consequences might arise so as to enable the evaluation of the extent to which the policy or programme has led to unintended effects.

DG TAXUD provided the evaluation team with an early draft of an intervention logic for the scheme for the suspensions of autonomous CCT duties. The evaluation team reviewed this document and proposed a number of additions and refinements in order to more fully capture the mechanisms through which the intended and unintended effects of the tariff suspensions scheme might arise.

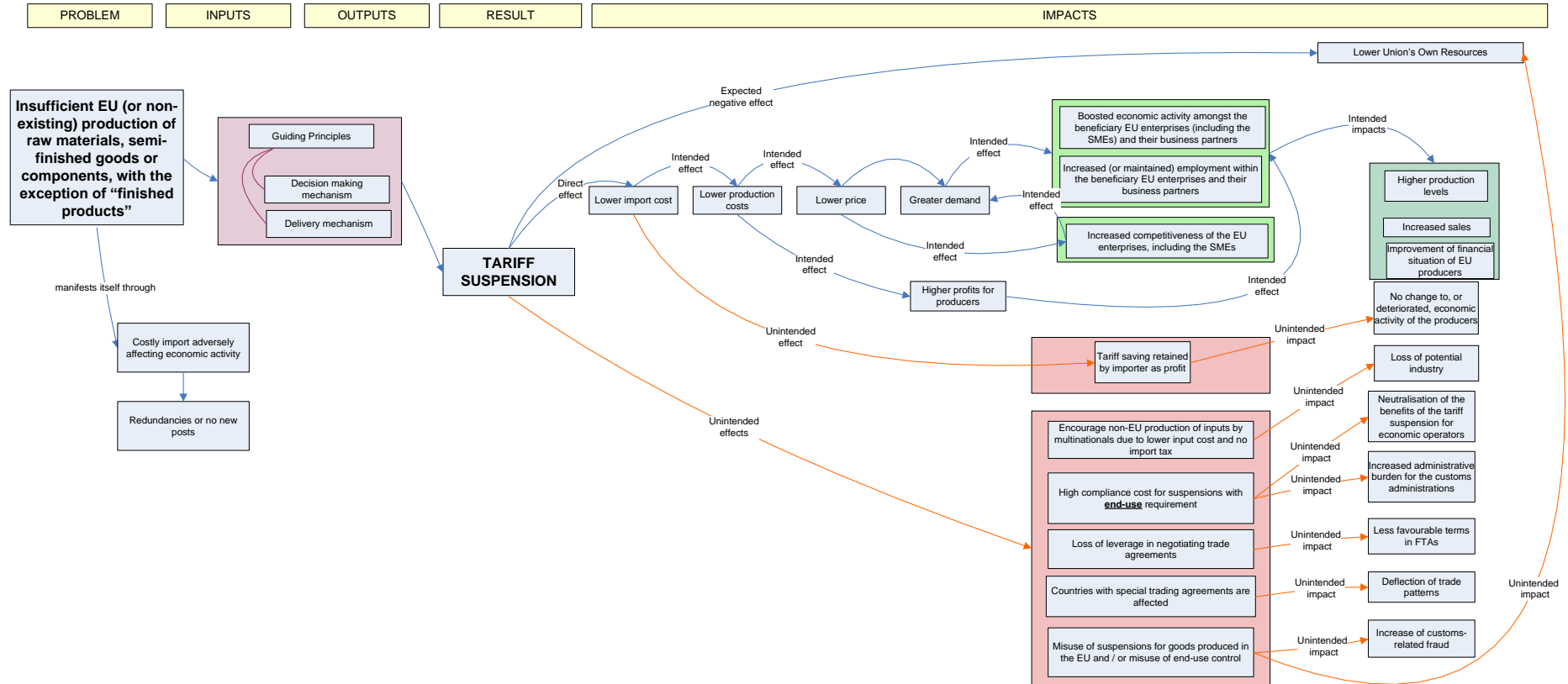
The final intervention logic is shown in Figure 3.1. The diagram shows that the positive intended effects of the scheme arise if key assumptions hold at several stages of the intervention logic. It also shows that the scheme may fail to function as intended at a number of these stages.

Armed with a detailed understanding of the intended and potential unintended effects of the tariff suspensions scheme, the evaluation team was able to target its research and evidence gathering towards the key stages depicted in the intervention logic since these would be the key indicators by which it would be possible to judge the success or failure of the scheme.

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<sup>14</sup> Suspensions with end-use controls are clearly marked as such in the relevant Regulations (e.g. Council Regulation (EU) No 1344/2011). For example: CN code ex 8529 90 92, TARIC 40: Assembly comprising prisms, digital micromirror device (DMD) chips and electronic control circuits, *for the manufacture of television projection equipments or video projectors* [italics added] (Suspension of duties is subject to Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253 11.10.1993, p. 1)

Figure 3.1: Intervention Logic



### 3.3. The suspensions scheme in practice: Key statistics

In this section, we use data provided by DG TAXUD to illustrate key developments in the tariff suspensions scheme between 2007 and 2011. The charts in this section are primarily descriptive in nature; our assessment of the impacts of the tariff suspensions scheme is contained in subsequent sections of this report.

Many of the charts presented in this report illustrate trends by the category of the imported product. To ensure consistency with DG TAXUD's previous analysis of the suspensions scheme between 2007 and 2011, we have chosen to define product categories as follows:

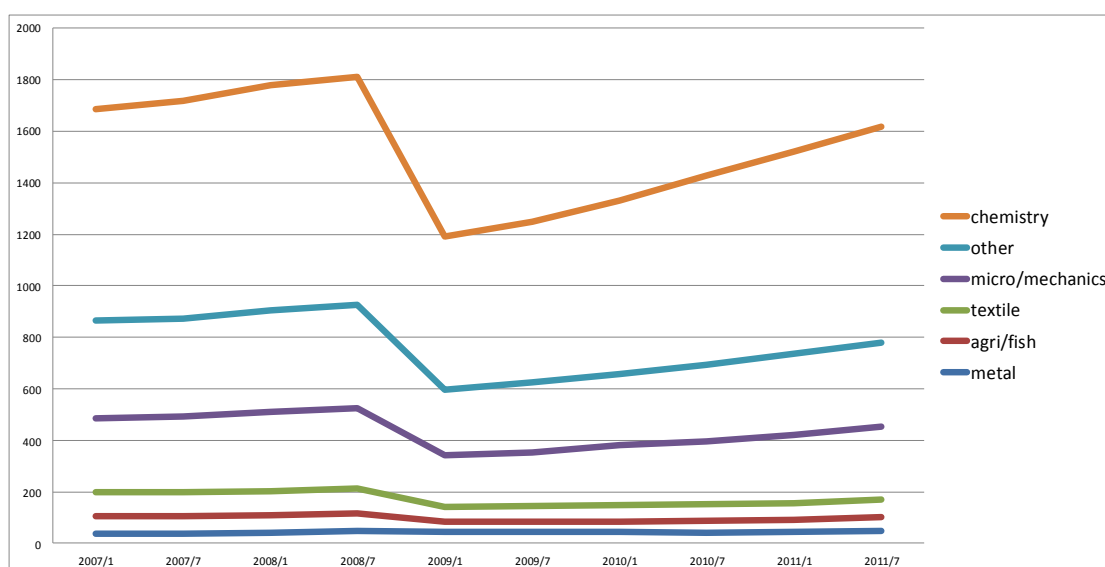
**Table 3.1: Key relevant product categories for suspensions**

Product category	Two-digit product code
1: Agriculture / fish	03, 06, 07, 08, 15, 16, 19, 20, 21, 23
2: Chemistry	27, 28, 29, 32, 33, 34, 35, 37, 38
3: Metal	72, 73, 74, 76, 79, 81, 83
4: Micro/mechanics	84, 85, 87, 90, 91, 94, 95, 96
5: Textile	50, 52, 54, 55, 56, 58, 59, 63
6: Other (plastics, rubber etc.)	39, 40, 41, 68, 69, 70, 71

Source: DG TAXUD (2012), "Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011)", page 5

Figure 3.2 shows that the total number of TARIC codes linked to suspensions fell slightly between 2007 and 2011 from a total of 1,686 at the start of the period to 1,618 at the end. However, this simple observation masks the fact that the number of codes linked to suspensions increased in all but one of the years covered by this evaluation. The significant reduction experienced in 2009 can be explained by a one-off clear-up in which several hundred existing suspensions were not prolonged. In other years, the number of new suspensions generally exceeded the number that are not prolonged and the total number of TARIC codes linked to suspensions increased.

**Figure 3.2: Cumulative number of TARIC codes linked to suspensions**

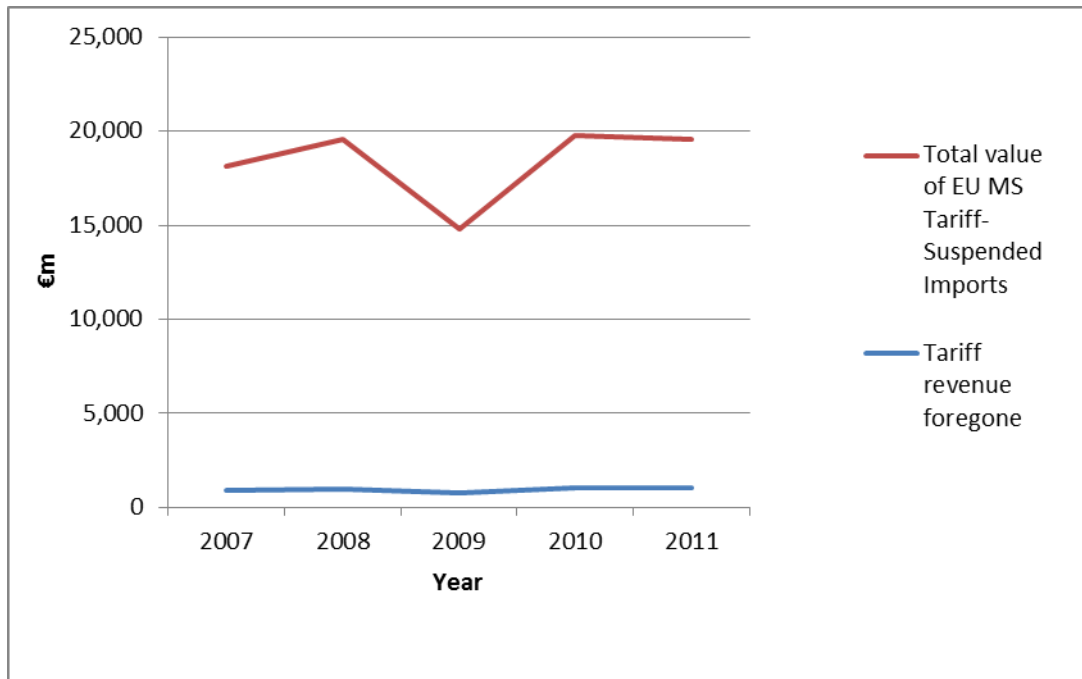


Source: DG TAXUD (2012), "Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011)", page 9

The figure below shows that the total value of trade in suspended products has fluctuated during the period covered by this evaluation whereas the value of tariff revenue foregone has remained broadly constant. On average, between 2007 and 2011 the value of imports under suspension was €18.4 billion per annum, approximately 20 times greater than the average value of foregone revenue at €944m per annum.

There was a significant drop in the value of imports under a CCT duty suspension (and the value of foregone revenue) during 2009 because of both the economic recession and the fact that numerous suspensions were not prolonged in that year. The total value of suspended imports does not appear to have been significantly affected by the poor economic performance of the EU in the later years covered by this evaluation. However, this is likely to be explained by the increase in the number of suspensions rather than a hypothesis that final products that use suspended products as inputs have been particularly resistant to the economic downturn.

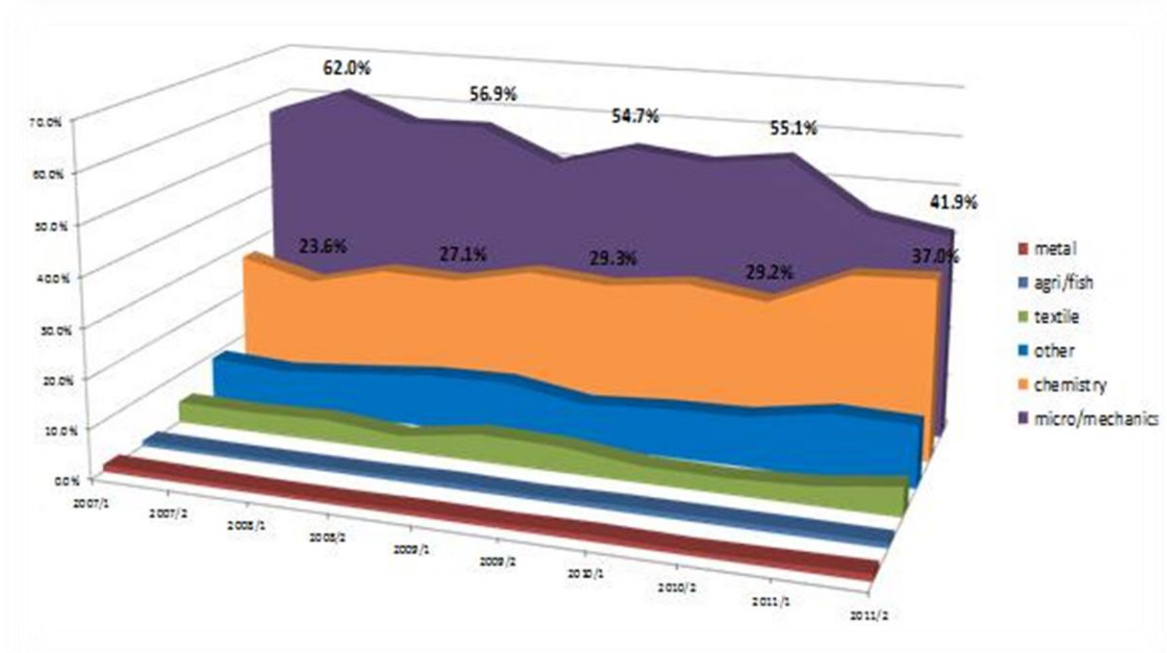
**Figure 3.3: Total value of EU tariff-suspended imports and foregone revenue**



Source: Europe Economics analysis based on DG TAXUD (2012), "Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011)", pages 10 and 14

Figure 3.4 shows that more than 60% of the value of all products imported under a CCT duty suspension belonged to the micro/mechanics category at the start of the evaluation period. However, there was a significant fall in this figure between 2010 and 2011 as the percentage of all imports under suspension accounted for by other product categories increased. This change reflected both an increase of €1.2 billion in the monetary value of the suspended imports of the non-micro/mechanics products between January 2010 and July 2011 and a fall of approximately €1 billion in the value of micro/mechanics products imported under suspension over the same period.

Figure 3.4: Percentage of all trade in suspended products for each category



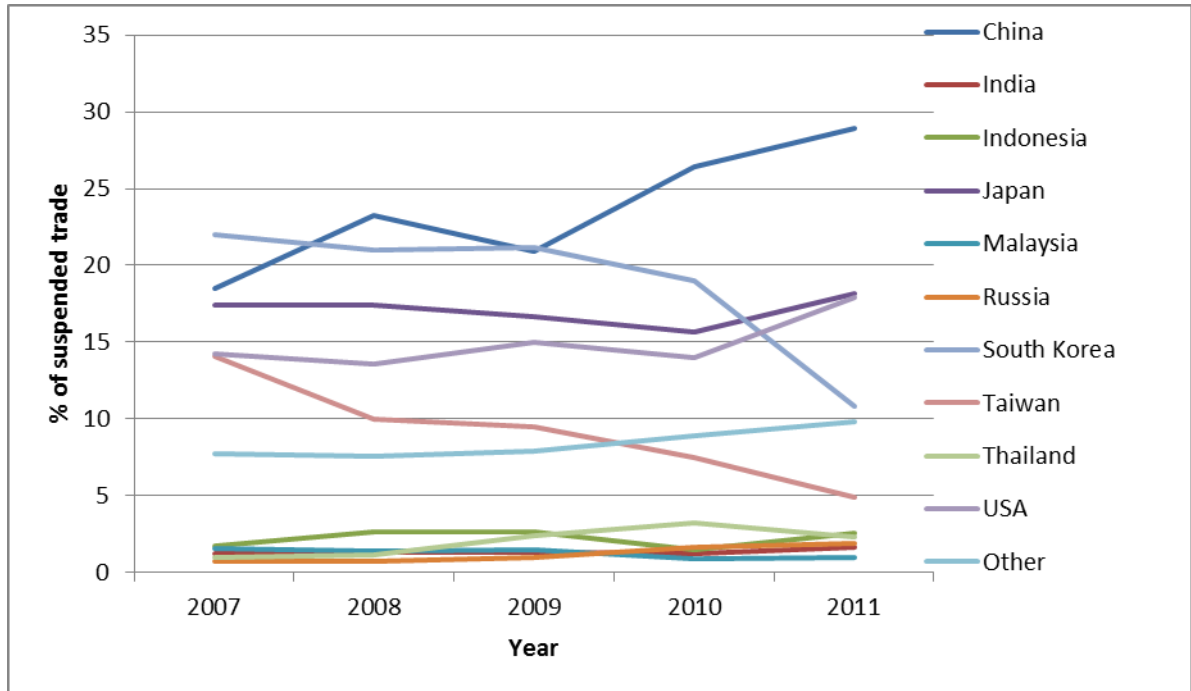
Source: DG TAXUD (2012), "Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011)", page 10

Examining the origins of tariff-suspended imports in Figure 3.5, we find that some changes have occurred over the period we consider. In 2007, imports from South Korea represented the greatest proportion of total trade in suspended products, closely followed by China. In the same year, the USA and Taiwan each contributed about 14% of the value of total suspended imports into the EU.

By 2011, South Korea had fallen from first to fourth position while China had leapt into the top spot. Chinese imports made up 18% of the tariff suspension trade in 2007, compared with roughly 29% five years later. Similarly, trends in US and Taiwanese imports in the tariff-suspended market have diverged. While both countries contributed around 14% of tariff-suspended imports in 2007, the USA's share of the tariff-suspended market had increased to around 18% while Taiwan's share had fallen to around 5%.



Figure 3.5: Per cent of suspended trade by trade partner: 2007-2011



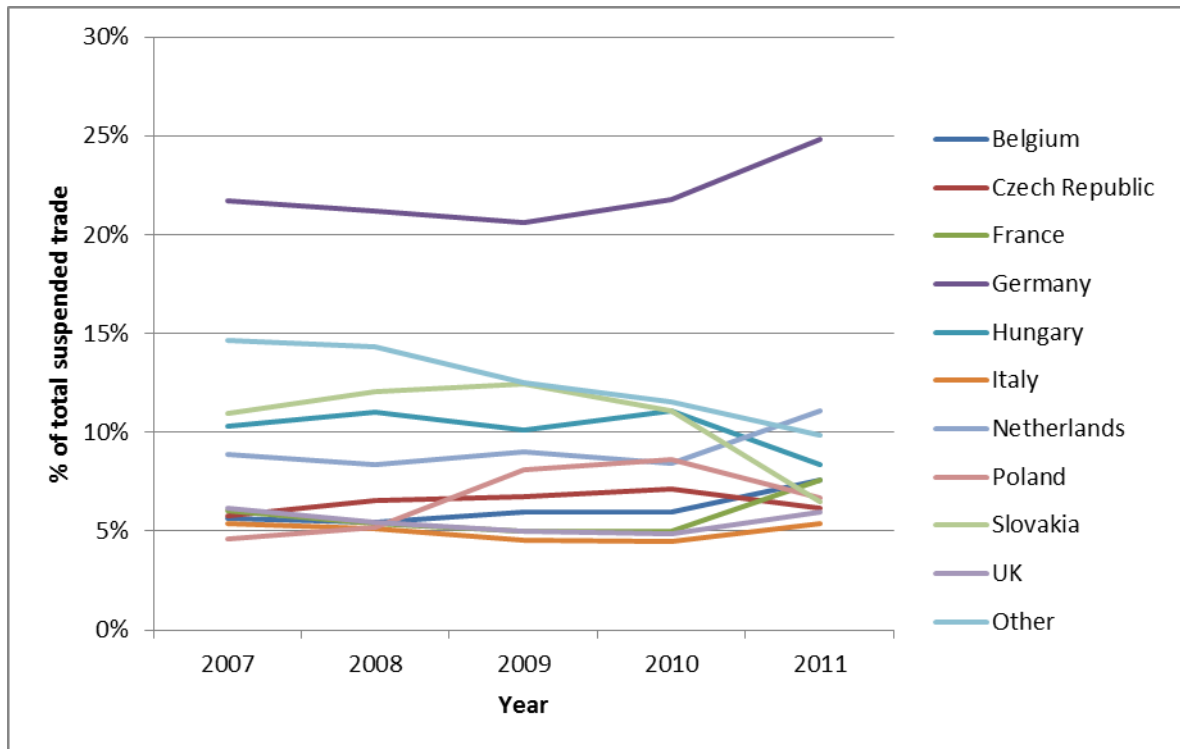
Source: DG TAXUD; Europe Economics' calculations

Analysing the destination of products that are imported to the EU under an autonomous CCT duty suspension, it appears that participation in the tariff-suspension scheme has varied both between Member States and over time.

Figure 3.6 shows that Germany was the most significant importer of tariff-suspended products between 2007 and 2011. It accounted for between 20 and 25% of all tariff-suspended imports to the EU over the time period covered by this evaluation.

Belgium, France, Italy the Netherlands, Poland and the UK all saw their share of tariff-suspended imports increase over the period but companies based in other countries appear to have been making less use of the tariff suspension scheme over time. The 'other' category, which represents EU Member States other than those individually identified in Figure 3.6, fell steadily between 2007 and 2011. This mirrors patterns in some individual Member States. For example, Slovakia and Hungary both saw the percentage of total tariff-suspended imports flowing into their respective countries decrease between 2007 and 2011.

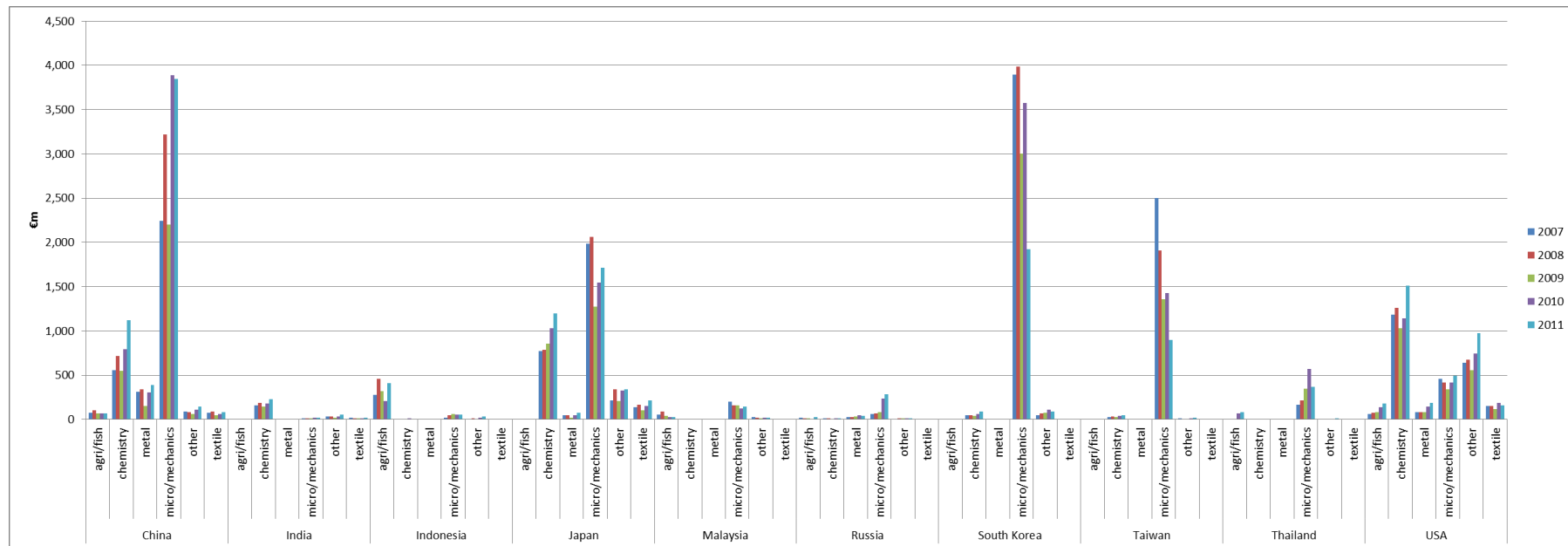
Figure 3.6: Per cent of suspended trade by EU Member State: 2007-2011



Source: Europe Economics' calculations based on DG TAXUD data

Figure 3.7 provides some insight into why we observe the pattern in the origin of tariff-suspended imports shown in Figure 3.5 (i.e. China and the USA becoming more important sources of suspended products while South Korea and Taiwan have decreased in importance). In 2007, South Korea and Taiwan both exported a relatively large value of tariff-suspended micro/mechanics goods into the EU while China exported fewer micro/mechanics goods. Between 2007 and 2011, the value of micro/mechanics goods imported from South Korea and Taiwan fell steadily, while imports of the same product category from China began to rise. This may be one explanation for the patterns observed in Figure 3.5. Interestingly, there was not a marked rise in the value of micro/mechanics imports from the USA. In this case, it appears that the increase in the value of imports from the USA that belong to the chemistry and other categories is the main explanation for its increasing significance as a source of suspended products.

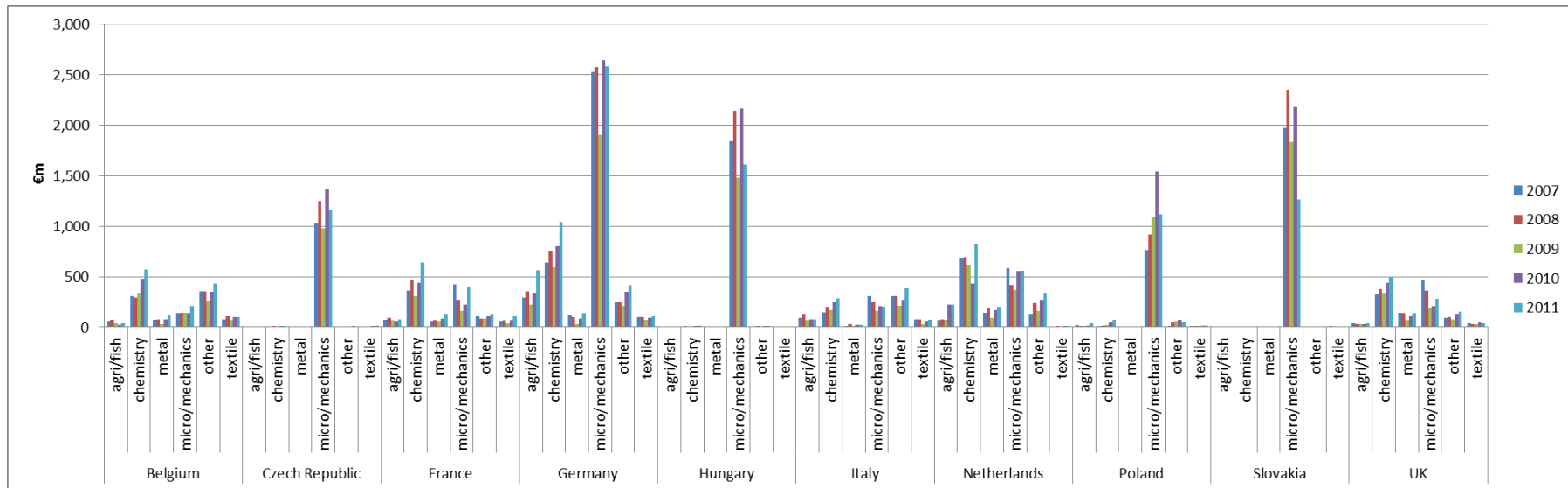
**Figure 3.7: Value of tariff-suspended imports by trading partner and product category: 2007-2011**



Source: DG TAXUD; Europe Economics' calculations

Figure 3.8 provides some insight into the patterns shown in Figure 3.6 (i.e. the increase in the proportion of all suspended imports accounted for by Germany, Belgium, France, Italy the Netherlands, Poland and the UK and a corresponding fall in other Member States). For example, Hungary and Slovakia are both significant importers of tariff-suspended products in the micro/mechanics group. In 2009, the value of micro/mechanics tariff-suspended imports fell and so did the value of those imports for most other countries. In 2011, however, the value of micro/mechanics imports in Hungary and Slovakia under tariff-suspension fell again, but the value of imports in that category actually rose in other countries (e.g. Germany, the UK, France). This seems to explain why we observe the proportion of all EU tariff-suspended imports that are accounted for by Hungary and Slovakia falling sharply in 2011.

Figure 3.8: Value of suspended imports by EU Member State and product category: 2007-2011



Source: DG TAXUD; Europe Economics' calculations

## 4. Evaluation results: The implementation process of the suspensions scheme

This section presents the key results of the evaluation regarding the first four evaluation questions, which deal with different aspects of how the scheme is implemented, including the way it is communicated (4.1.), the application and objection processes (4.2.), decision-making (4.3.) and end-use controls (4.4.). Evidence to answer these questions is drawn primarily from the surveys and interviews with representatives of both economic operators and national authorities.

### 4.1. Effectiveness of the communication arrangements

Evaluation question:

To what extent is the communication on the suspension scheme at EU and national levels effective? (Awareness)

The question was answered based on a review of existing tools and mechanisms to communicate information about the tariff suspensions scheme by different actors (both public and private) at the EU and national levels, and by collecting feedback from economic operators (via both questionnaires and interviews) as to the effectiveness of these in terms of both raising awareness of the scheme and of communicating decisions, deadlines, information required for applications and objections, etc.

The particular findings with relation to the individual judgement criteria are presented in the subsequent paragraphs.

#### ***Ways in which the suspension scheme is communicated at EU and MS level***

The findings of the detailed questionnaire completed by 22 representatives of the NAs indicated that **the key tool of communication used by the national authorities was the Internet** (annex 4, question 1). All of the representatives of MS national authorities who responded to the questionnaire claimed they publish information on their respective administration **website** (ministry of economics/finance and/or customs authority). Such information usually contains a brief outline of the scheme, upcoming deadlines and links to the DG TAXUD's website. The in-depth interviews with the ETQG delegates which were conducted by the evaluation team also confirmed the Internet as the predominant communication tool. The interviewees offered more comments on the type of information included on the NAs websites, and according to them these generally concerned (apart from the outline of the scheme, the deadlines and the procedure) the benefits to be had through tariff suspensions and the rules of eligibility under the scheme.

The questionnaire's results also indicate that, apart from communicating through a website, a number of NAs used notices in **newsletters** (paper and electronic), awareness raising **articles in the trade press** and **seminars** conducted with interested parties (also mentioned by the interviewed delegates). In a few cases the

reported communication tools used by the NAs also included **telephone contacts** with companies the NAs delegates think are likely to be able to benefit from a tariff suspension directly (based on sector and/or previous history of applications/expressions of interest); and **emails** to economic operators and relevant trade associations to alert them to approaching deadlines. This ranged from general emails to distribution lists of companies in key sectors, to specifically targeted at companies which had previously applied. The two latter **more personal forms of contact** were very much **preferred** by the economic operators who were also interviewed as a part of this evaluation (annex 2, section 2.1.a). Importantly, from the interviews carried out with the economic operators in the Member States it transpired that there is a striking **lack of consistency** in the communication tools used among NAs in different Member States.

**Sources of initial knowledge about the scheme**

In the applicants’ survey, which was disseminated by the national authorities among the companies who have previously applied for the suspensions, unsurprisingly it was the **national authorities** who were reported as being the key source of initial information about the scheme (annex 1, question 21).

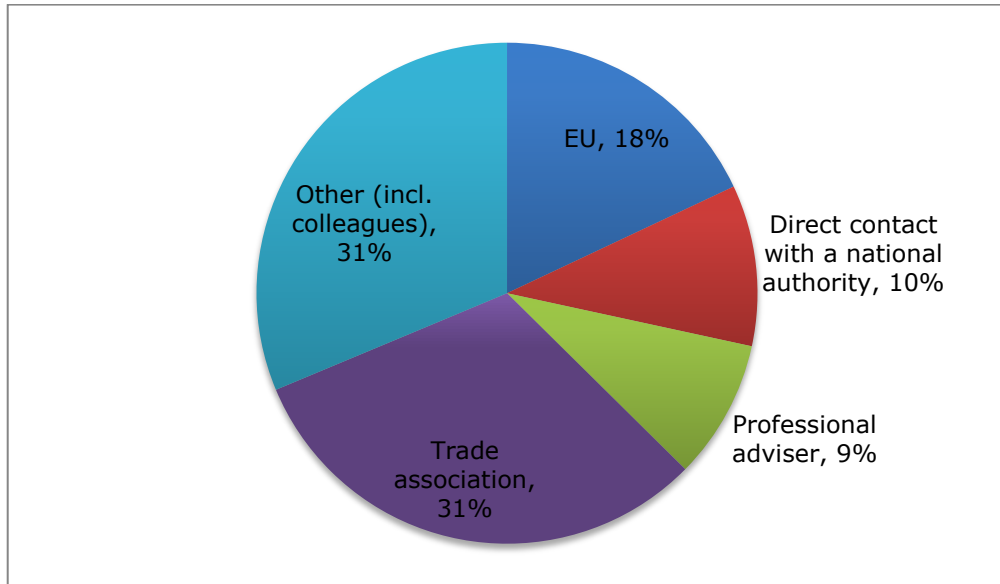
The largest fraction of companies (approximately a third) found out about the scheme through direct contact with NAs. Both professional advisers and the set of non-listed sources informed about one company in five. The website of Member States and the three EU channels (DG TAXUD’s website and the European Small Business Portal; direct contact with DG TAXUD or other Commission services; and the EU Official Journal) play minor roles- they were reported to inform less than one company in five in total. Other sources of information mentioned by a few survey respondents included: one of the company’s suppliers, a dedicated customs department within the company, and the fact that the tariffs affected the company since its foundation. An industrial confederation and custom journals are also listed as very useful sources of information.

**Figure 4.1: Key sources of initial information about the scheme according to the applicants’ survey**



The awareness survey (which was disseminated among all companies, not just applicants) generated somewhat different results. It suggests that economic operators who are not necessarily 'insiders' (i.e. may or may not have direct experience with the suspensions scheme) tend to obtain their initial information about the scheme from **trade associations** and other sources – including **colleagues** (annex 3, question 3).

**Figure 4.2: Key sources of initial information about the scheme according to the awareness survey**



This finding corresponds with the results of the in-depth interviews carried out with representatives of economic operators. A number of them admitted that they have known about the suspension scheme for a long time, due to their involvement in the industry and that this knowledge was passed on to them by their colleagues who previously were responsible for customs-related issues in the companies (annex 2, section 2.1.a).

### **Ways of keeping up with the information about the scheme**

According to the applicants' survey, for the companies who wish to apply or have applied for tariff suspensions, it is the **direct contact with national authorities** which is by far the most widespread way of keeping abreast of scheme developments (done by 60 % of the companies) (annex 1, question 22). The second most relied upon medium are **trade associations** (30 %), followed by the **EU Official Journal (OJ)**<sup>15</sup> and the **websites of Member States** (read by just over and under a quarter of the companies, respectively). Professional advisers and the EU online channels<sup>16</sup> have minor roles (around 15 %), followed by the direct contact with EC services (just

<sup>15</sup> A note is published in the OJ for the attention of operators every six months:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:106:0010:0010:EN:PDF>

<sup>16</sup> The DG TAXUD website provides information on the scheme, including a link to the Communication and the Regulations suspending products:

[http://ec.europa.eu/taxation\\_customs/customs/customs\\_duties/tariff\\_aspects/suspensions/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/suspensions/index_en.htm)

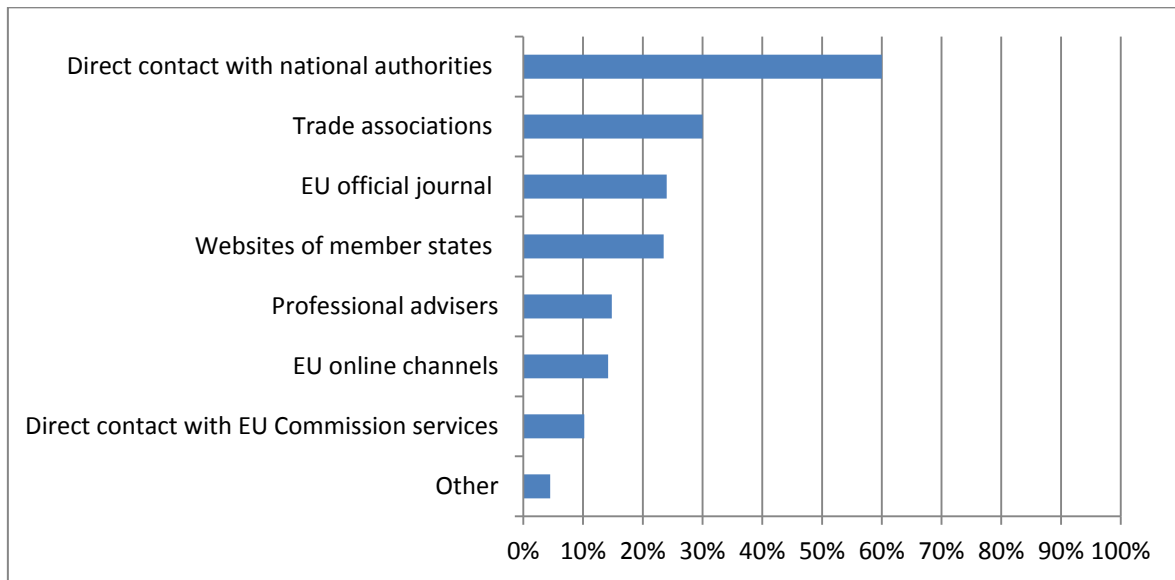
The DG TAXUD website also provides access to the suspension database where information is provided for suspensions in force but more importantly for suspensions in preparation:

[http://ec.europa.eu/taxation\\_customs/dds2/susp/susp\\_home.jsp?Lang=en](http://ec.europa.eu/taxation_customs/dds2/susp/susp_home.jsp?Lang=en)

over 10%). Other non-listed sources of information have a negligible role (less than 5%).

As the majority of the survey respondents seem not to have resorted to the help of professional advisors (such as lawyers and accountants) to provide further information and advice, this may indicate that the level of complexity of the information is not considered to be overly high. This supposition was to an extent confirmed during two of the in-depth interviews with economic operators undertaken by the evaluation team: the interviewees recalled being contacted by private consultancies proposing them advice on obtaining tariff suspensions, but the EOs realised they had the resources and skills to pursue the tariff suspension without any of the external consultancies' help (annex 2, section 2.1.a).

Figure 4.3: Ways of keeping up with the information regarding the scheme



According to the majority of the economic operators interviewed by the evaluation team, the **direct contact with their NAs delegates was the most common way of keeping up to date with the information about the scheme** (annex 2, section 2.1.d), although the EOs admitted the contact was not very frequent. Most often the information passed on to the applicants only included the dates of ETQG meeting, potential objections filed to their application, and the final decision regarding the suspension application. Another information tool mentioned by the interviewees was monitoring **DG TAXUD's website**.

***Extent to which the communication is appropriate to the needs and expectations of (potential) beneficiaries (EOs)***

The proportion of respondents to the applicants' survey who are satisfied with the level and complexity of information available (at EU and national level) is presented in Table 2, with a score of "5" indicating the highest level of satisfaction.

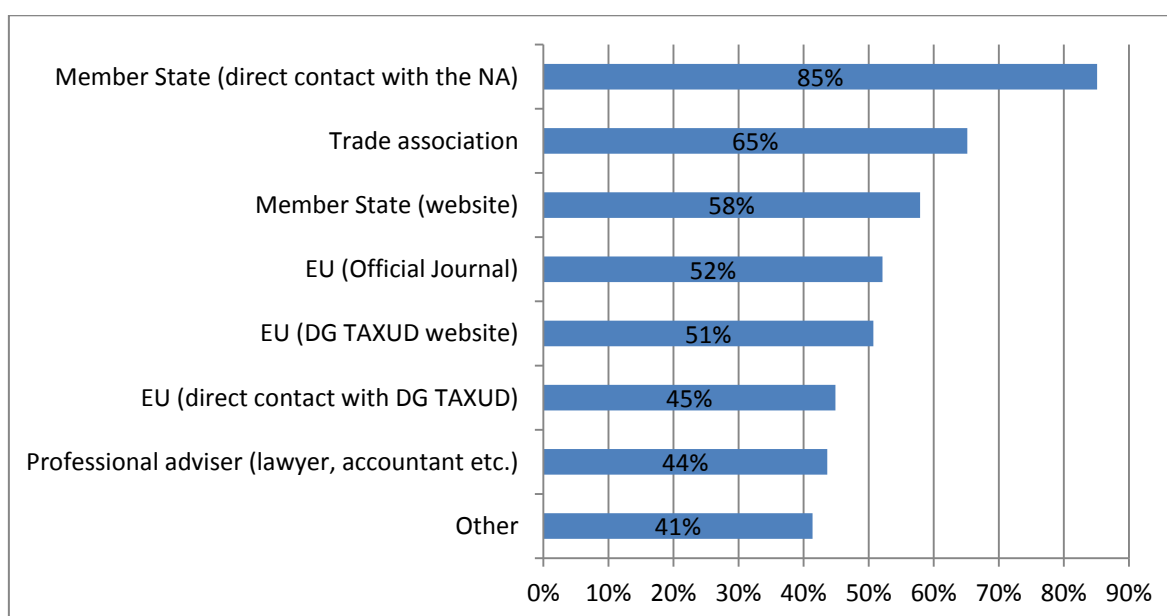


**Table 4.1: Levels of satisfaction with the information available**

	1	2	3	4	5	Don't know	Answers
Member State (direct contact with the NA)	5%	2%	8%	12%	68%	6%	61
Trade association	5%	5%	14%	14%	29%	34%	59
Member State (website)	3%	12%	17%	22%	22%	24%	57
EU (Official Journal)	3%	5%	25%	17%	20%	29%	59
EU (DG TAXUD website)	3%	12%	20%	25%	10%	31%	65
Professional adviser (lawyer, accountant etc.)	14%	4%	14%	13%	11%	45%	59
EU (direct contact with DGTAXUD)	7%	11%	11%	11%	11%	51%	56
Other	7%	0%	10%	2%	10%	71%	42

The answers given by respondents become clearer when the respective level of satisfaction (responses 4 and 5) is re-scaled to take into account only the proportion of EOs who indicated knowledge of a given source of information (see the graph below).

**Figure 4.4: Proportion of respondents who knew of a given source of information who were “satisfied” and “very satisfied” with it**



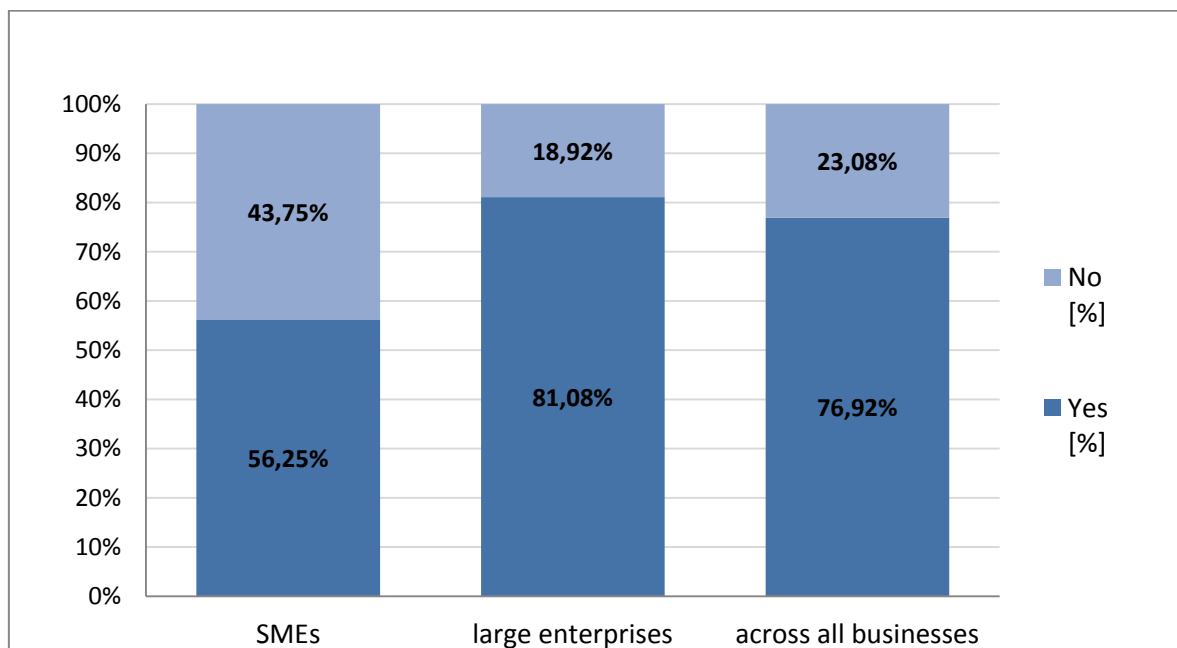
Direct contact with national authorities is by far the source of information with which the highest percentage of the survey respondents is satisfied. Communication with trade associations is also, on average, considered useful, and this is closely followed with visiting the website of Member States. The EU Official Journal and DG TAXUD websites scored positively among over a half of respondents who were aware and used them as sources of information. Direct contact by DG TAXUD and professional advisers was considered satisfactory by just under a half of the EOs who knew about them, although it should be noted that only approximately one in two respondents reported ever using them as a source (i.e. had an opinion on them).

**Extent to which (potential) beneficiaries (EOs) are aware of the scheme and its advantages**

With the available data, it is not possible to determine the level of awareness of the scheme among EU businesses with a reasonable degree of certainty. According to the awareness survey disseminated among the European economic operators with the help of trade associations, the levels of awareness are **very high**. At the same time, however, it comes to light that there is a **significant variation in the levels of awareness of the scheme depending on the size of the companies** (Figure 4.5) and their **sector** (Figure 4.6).

However, what should be taken into account is the **limitation of this data collection tool** (see section 2.3 and annex 3). Due to the way in which the survey was disseminated, and the resulting lack of control over the sample, the results are clearly not representative of EU manufacturing businesses as a whole.

Figure 4.5: Respondents' awareness of the EU tariff suspensions scheme



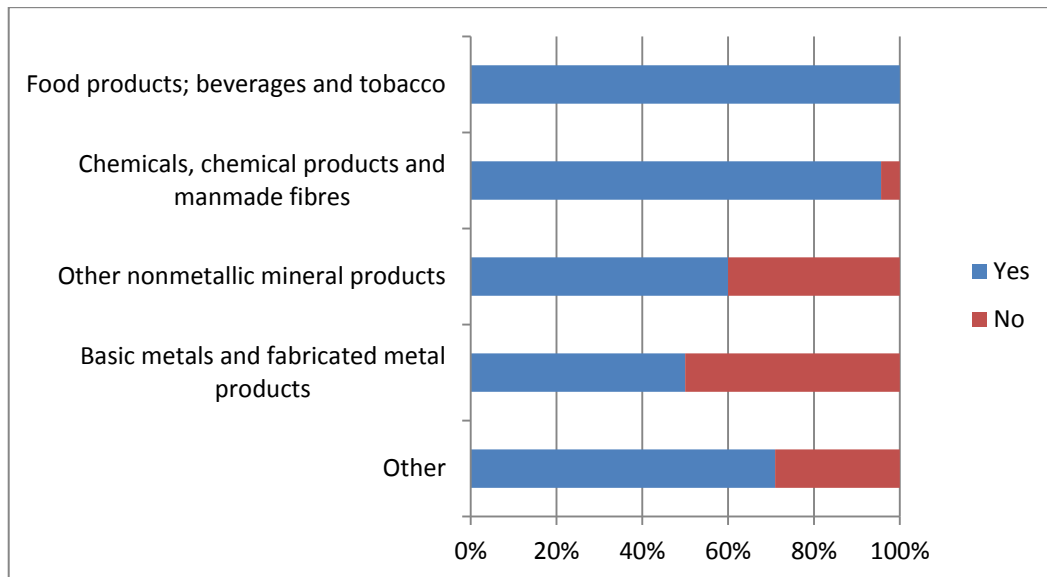
Notwithstanding the finding that the survey does show that the awareness is very high among large firms, the level of the schemes' **unawareness** among representatives of the **SME sector** is over twice the volume of large enterprises. Whilst out of the large enterprises who took part in the survey approximately one in 5 indicated lack of awareness of the scheme, in case of SMEs this proportion was much closer to one in two. However, again, this finding is not very robust due to the very low proportion of SMEs who responded to the survey: only 17.6% (i.e. 16 economic operators).

The issue of SMEs' relative unawareness of the scheme was confirmed by a number of interviews with trade associations (annex 2, section 2.2.a); yet the interviewees were unable to offer any solutions on how the awareness could be increased.

### **Awareness by sectors**

The results of the awareness survey presented below take into account only the sectors with at least 5 responses in total (sectors with less than 5 responses are included in the category "other").

**Figure 4.6: Awareness of the suspension scheme in particular sectors with more than 5 survey responses**



The concerns regarding representativeness outlined above notwithstanding, the findings of the survey suggest very high awareness levels in the sectors: Food products (6 out of 6 answers), and Chemicals (22 out of 23 answers). It should be noted that in the case of all sectors shown in the graph, the responses came predominantly from large enterprises.

### **Suggested improvements**

National authorities, economic operators and trade associations made several suggestions as to how the current communications arrangements might be improved, with a particular focus on raising awareness of the scheme. Given the evaluation findings revealed that Member States vary in terms of their awareness raising efforts, possible improvements might include:

- Sharing best practices between the Member States, to allow those countries which currently struggle to learn from those which are more innovative and pro-active in this field;
- Developing guidelines for awareness raising activities across the Member States;
- Fostering links with relevant trade associations. This might include according a greater role to EU-level trade associations (examined under section 4.3 below with regard to awareness raising amongst potential objectors);
- Considering more novel approaches such as working with journalists to publish articles about the scheme and its benefits in trade journals and other publications widely read by the business community;
- At EU level, DG TAXUD may wish to explore best practices already applied by other Commission services. This might include, for example, using social

media, particularly Twitter, to reach out to EU businesses, drawing their attention to approaching deadlines and signposting to information on the scheme.

## Conclusion

The effectiveness of the communication regarding the suspension scheme seems to be **varied**. Distinctions need to be made between different types of communication: raising awareness and practical information; EU and national-level communication; and between the recipients: 'insiders' (companies who have already had experience with the scheme), and those who might yet be unaware of the scheme.

The communication is **effective** in terms of providing **practical information** to (potential) applicants who are already aware of the scheme and the opportunities it provides. This is demonstrated by the generally high levels of satisfaction among applicants, although the effectiveness varies to some extent depending on the MS and sector. Feedback collected via interviews and surveys points towards the **national authorities** and, to a somewhat lesser extent, the **trade associations** as the key sources of **information** regarding the scheme.

The most effective way of communicating the scheme in the **Member States**, which is very much valued by the applicants (especially the SMEs and first-time applicants) remains **personal contact** (e-mails, phones etc.) with the **national delegates**. The quality of information provided in person by the ETQG delegates is praised most often. However, it was indicated that the level and quality of information they provide varies depending on the Member State.

On the other hand, **online resources** (i.e. websites at the national and EU level) are described as key information channels by national authorities, but their actual use by economic operators, and their level of satisfaction with them, is relatively low (when compared with the other sources mentioned above). This may indicate that there is still room for improvement in the user-friendliness of such websites.

It is much more **difficult to judge** to what extent the communication is effective in **raising awareness**. Little is being done at the EU level to increase awareness (cf. provision of information), and therefore the effectiveness depends almost entirely on the quality of the efforts the national authorities and trade associations undertake to inform their companies and/or members.

The levels of **awareness** of the scheme across EU businesses that result from these efforts are **difficult to specify** based on the available data. While the awareness survey carried out for this evaluation suggests awareness levels of over 80% for large enterprises, and over 50% for SMEs, these results are not based on a representative sample and should be viewed with caution. During the interviews, many stakeholders (including national authorities and trade associations) voiced concerns that awareness of the scheme among SMEs in particular is actually likely to be very low.

## 4.2. Efficiency of the delivery mechanisms

Evaluation question:

To what extent are the delivery mechanisms (in particular the application process) efficient? What improvements, if any, are needed?

Drawing on a series of in-depth interviews with economic operators, trade associations and ETQG delegates, in addition to an analysis of responses to surveys for delegates and economic operators who had applied for a tariff suspension, the evaluation team sought to gauge the efficiency of the delivery mechanisms, namely:

1. the application process (including objections and prolongations);
2. the decision-making process (including the work of DG TAXUD and the ETQG); and
3. enforcement (in particular end-use controls).

Given that points 2 and 3 are addressed under Evaluation Questions 3 and 4 respectively (see sections 4.3 and 4.4 below), the focus of this Evaluation Question has been placed on the application process.

The evaluation team set out to ascertain the extent to which the application process is efficient i.e. timely and time-consuming and resource intensive. Broken down into its constituent parts, the answers to this question can be expressed from different angles as per the different processes outlined below.

### 1. Application process ('new' applications and prolongation requests)

Companies which apply for a tariff suspension request do so in three situations:

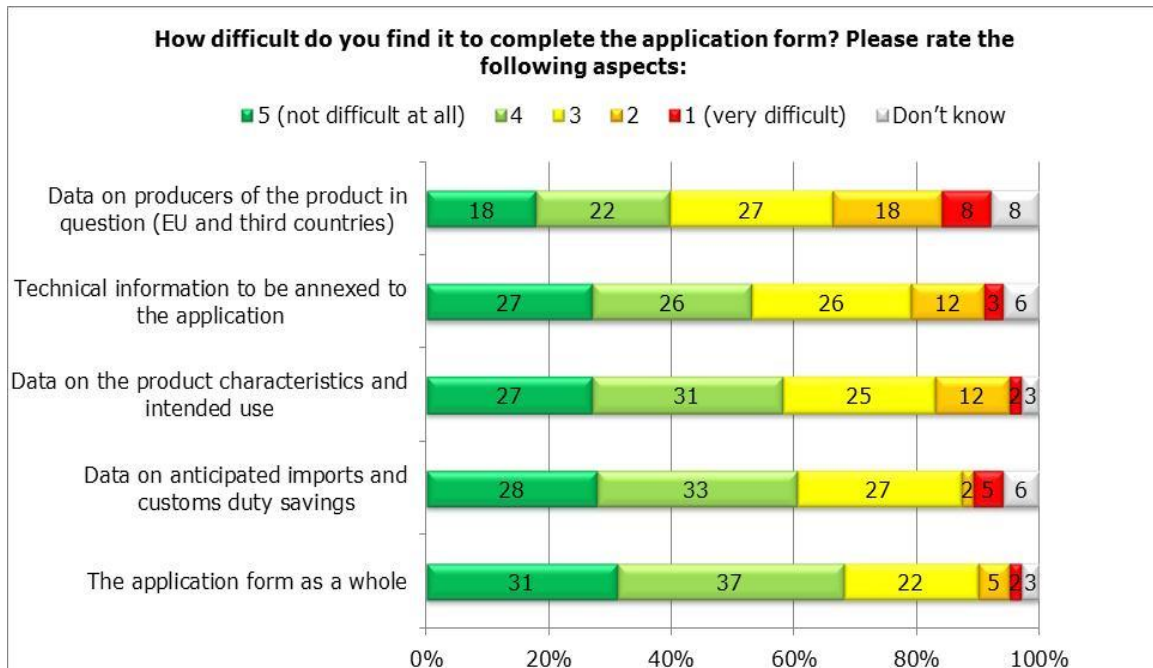
- a) either they wish to obtain a tariff suspension **for a product not currently subject to the scheme**; or
- b) they seek to **extend the life of an existing tariff suspension (prolongation)**; or
- c) they seek an **amendment to the terms of an existing tariff suspension** or quota.

This division is useful, in that it serves to highlight the different problems which economic operators encounter depending on whether they have previous experience of applying for a tariff suspension.

#### **Forms and scope of information required**

**Amongst economic operators surveyed**, neither the application form as a whole nor any of the specified sections were considered to be difficult to complete (Figure 4.7) although a small number of survey respondents did report difficulties providing data on alternative producers of the product in question, as examined below.

Figure 4.7: Applicants' views on the application form



The interviews with economic operators and national authorities suggest that companies which have previously applied for a tariff suspension are less likely to encounter the 'teething problems' which afflict first-time applicants, complete the applications more quickly and require less intensive assistance from national authorities (annex 4, question 7).

**Selecting the appropriate CN code and composing a suitable product description** were mentioned by both ETQG delegates and economic operators (annex 2, section 2.1.b) interviewed as a challenge in the application process:

- **first time applicants, often smaller companies** often found it difficult to understand how their product could best be described succinctly in appropriately neutral terms and required significant guidance from ETQG members on this issue, although frustrations arose where national authorities were thought to lack the necessary technical knowledge (annex 1, question 30);
- other **economic operators**, generally larger more sophisticated multi-nationals able to draw on a wealth of experience with the scheme, explained the main challenge stemmed from their desire to define the product as narrowly as possible. Both economic operators and ETQG members recognised that companies have every incentive to be *strategic*, composing product descriptions so narrowly as to allow them to benefit from the scheme, while simultaneously excluding their competitors' products from a duty suspension.

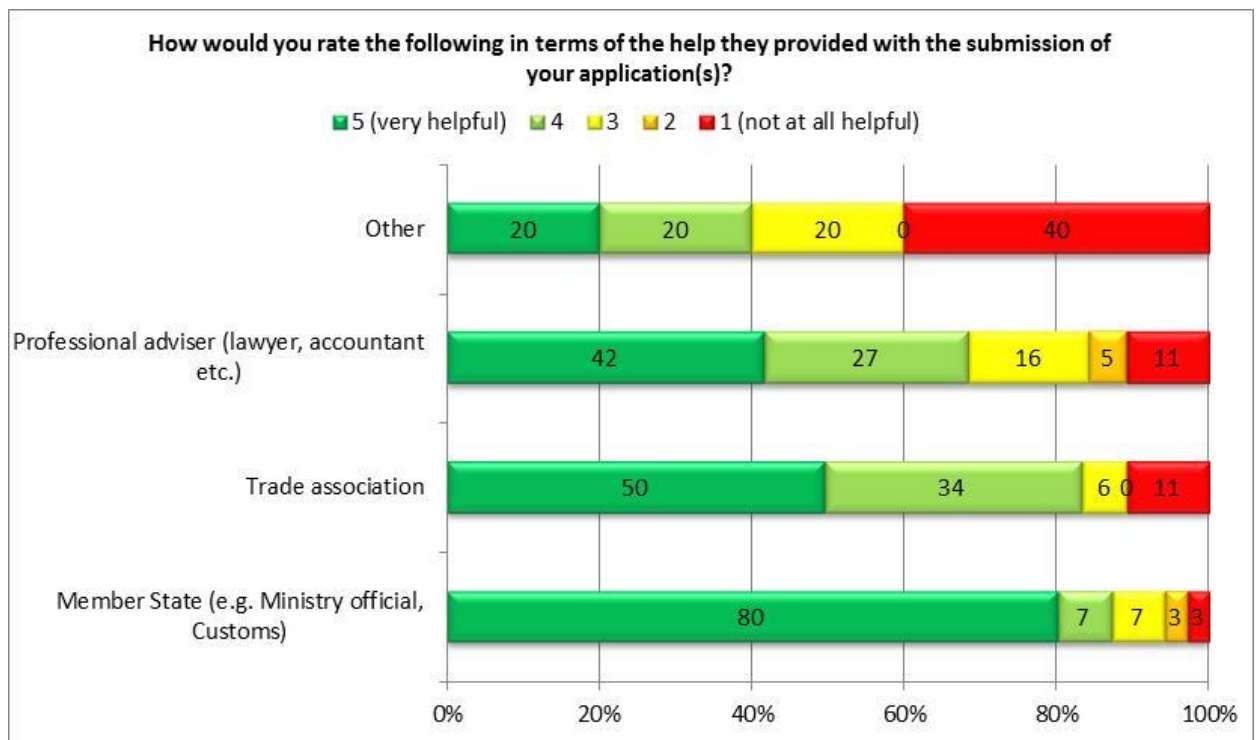
As highlighted by the survey results (Figure 4.7) **the requirement to provide data on producers of the relevant product** within the EU and third countries presents a challenge to economic operators, particularly SMEs. Several national authorities interviewed explained they were unsure *how far applicants needed to go* in order to meet the obligation to research alternative sources of production.

**Assistance with the application process**

Most **ETQG delegates** interviewed confirmed that the majority of their time assisting applicant companies is spent guiding first timers through the system, explaining the process step by step (annex 4, question 7). Where companies had previous experience of the process, they were more knowledgeable of the information required to complete the application form and how they could obtain it, conscious of deadlines and better equipped to meet two of the main challenges to first time applicants, namely selecting the appropriate CN code and composing a suitable product description which would pass muster at the ETQG.

This engagement on the part of ETQG delegates would appear to be paying off, as amongst economic operators responding to the survey Member States (e.g. Ministry officials, Customs) were considered to be by far the most useful source of help with the submission of an application (see Figure 4.8). 79% of applicants responding to the survey had been assisted by Member States’ authorities, with the vast majority not assisted by any other source. In the minority of cases where economic operators had sought assistance from trade associations, these bodies were also considered very useful. The interviews suggest this varies considerably by sector, in accordance with the ability of responsible staff within the association in question.

**Figure 4.8: Applicants’ views on assistance with applications**



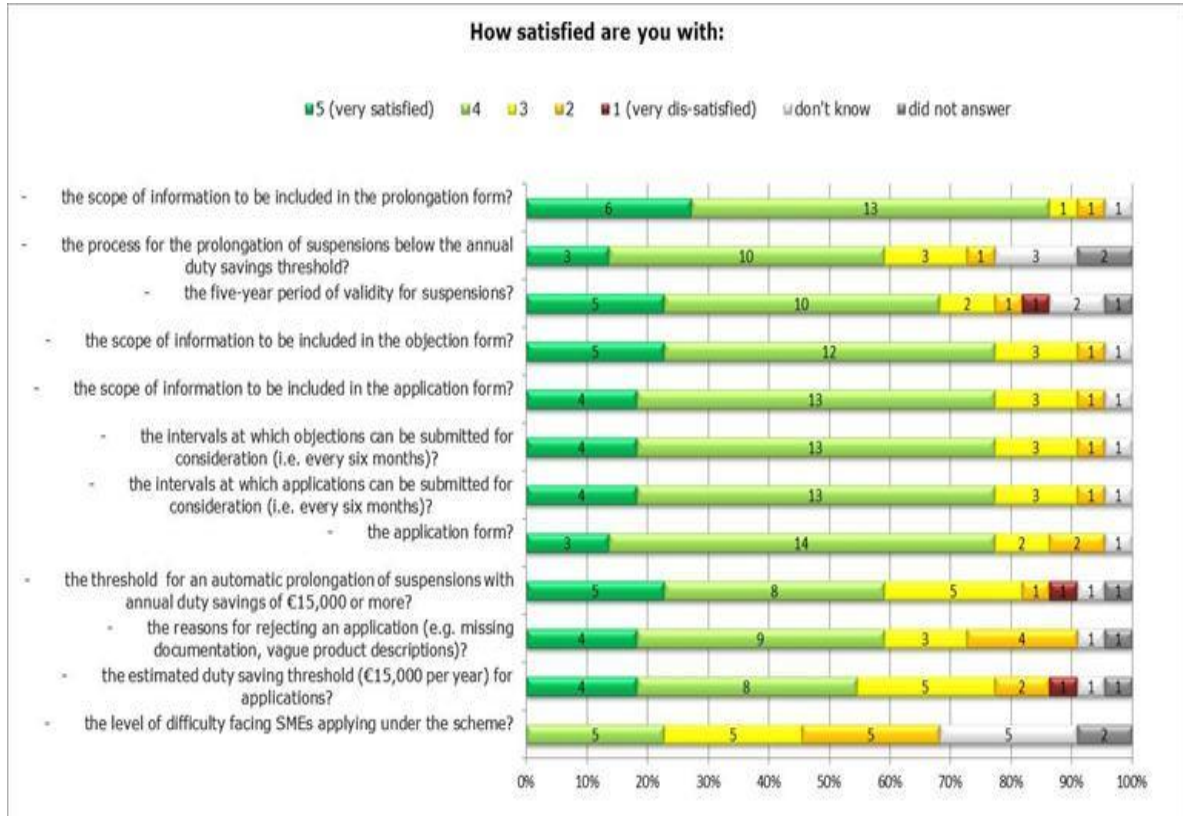
**Economic operators** which had applied for a prolongation to an existing suspension, regardless of whether they had also made the initial application, described the process as *straightforward* and not *overly time consuming* (annex 2, section 2.1.b).



**Challenges and problems with the administration of the application process**

Most **ETQG delegates** surveyed were satisfied with almost all aspects of the delivery mechanisms (see Figure 4.9).

**Figure 4.9: ETQG delegates’ views on the delivery mechanisms**



**ETQG delegates’** main areas of concern relate to SMEs, with lower levels of satisfaction recorded with regard to:

- the level of difficulty facing SMEs applying under the scheme; and
- the estimated duty saving threshold which prevents many SMEs from applying for a suspension.

Delegates from smaller Member States, in particular, were more likely to complain that this threshold, currently set at €15,000, significantly limited the number of applications submitted by ‘their’ economic operators. ETQG delegates explained that the option under the scheme for companies to group together in order to meet the threshold was rarely taken up in practice (annex 4, question 8). SMEs would be unlikely to invest the time and resources necessary to search for potential co-applicants. One delegate questioned the logic and desirability of expecting companies which would normally be competitors to work jointly to file an application.

Surveyed delegates also displayed lower than average levels of satisfaction with the reasons for rejecting an application. On interview, this dissatisfaction tended to relate again to the fact that delegates had to refuse requests from SMEs which did not meet the estimated duty saving threshold.



**Timeliness and length of the application process**

Satisfaction levels amongst economic operators surveyed were uneven with regard to the **intervals at which applications can be submitted** for consideration (annex 1, question 33). On average companies displayed some level of satisfaction, with a small number very dissatisfied. This finding was borne out by the interviews, with most companies considering the 6 monthly intervals to be reasonable and clear (annex 2, section 2.1.b). Amongst those who considered themselves very dissatisfied, the common complaint was that only allowing companies to apply for a suspension every six months failed to keep pace with the realities of doing business. One member of this group suggested allowing submissions on a quarterly basis would be more in keeping with commercial reality.

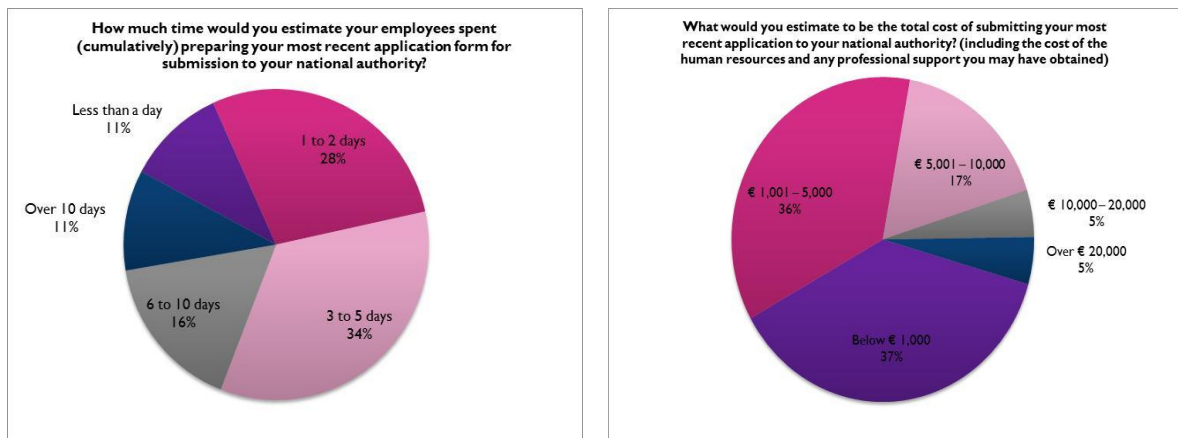
ETGQ delegates agreed the intervals were reasonable, with survey respondents expressing high levels of satisfaction (Figure 4.9 above). When interviewed, delegates explained that their economic operators generally understood they could only submit applications at six-monthly intervals and indicated that this was usually met with perhaps surprising levels of acceptance amongst potential applicants.

**The length of the application process** itself (as distinct from the time spent waiting for a decision, examined under section 4.3 below) was not considered to be a problem by most economic operators, who were able to complete their applications within a reasonable time (Figure 4.7).

**Time and resources**

According to economic operators surveyed, the majority of applications are completed within five working days, with 73% of economic operators surveyed estimating the cost of filing to be no more than €5,000 (over70 %), and 37% below €1,000 (Figure 4.10).

Figure 4.10: Human and financial resources used for applicants



Most **economic operators** interviewed confirmed the resources expended on completing the application form consist of one or two people spending a few hours a day, several days a week collecting information and filling out the form. In large, multi-national companies, staff with responsibility for customs questions typically coordinate the application, with technical assistance from local production managers, and support sometimes provided by a head office, often based outside the EU. Even where available, most companies do not avail themselves of legal or other professional advice, considering the application procedure to be *straight forward*.

Within SMEs, interviews suggest it often falls to the finance director, or business owner, to complete the application, often single handed. SME representatives interviewed were highly appreciative of the assistance provided by their ETQG delegates in filing applications.

### ***Suggested improvements***

Several delegates suggest that common guidelines on filing an application could allow a more uniform approach to handling the application process across the EU (annex 4, question 9). Such guidelines, to be translated into all EU languages, should extend beyond the description currently given in the 2011 Communication and guide applicants step by step through the process. Particular attention should be paid to the concerns voiced by stakeholders interviewed, including:

- **Advice on composing a suitable product description**, to explain to applicants how a product could best be described succinctly, perhaps giving examples of good practice and common pitfalls to be avoided; and
- **Advice on how best to meet the obligation on applicants to research alternative sources of European production** and the standard of proof which would be accepted by the Commission. This could include useful contacts and pointers on how best to find producers in other EU Member States.

## **2. Objection process**

The objection process can be considered from two perspectives:

- on one hand, the evaluators examined the experience of **companies which have raised objections** against a tariff suspension request lodged by another company; and
- on the other, the team studied the experience of **companies who found their application for a tariff suspension, whether 'new' or existing, subject to an objection.**

### ***Awareness of the objections process***

The objections process allows EU producers to oppose suspension requests which risk detrimentally affecting their business if they are able to supply identical, equivalent or substitute products. The effectiveness of this safeguard within the tariff suspension scheme depends on EU producers being aware of requests against which they may wish to object. Several economic operators and trade associations interviewed, complained that the **process whereby ETQG delegates communicate suspension requests to potential objectors is somewhat haphazard**, varying significantly among the Member States (annex 2, section 2.2.d). Trade associations interviewed complained that this situation meant their members were often not consulted in relation to requests which could detrimentally affect their business and thus denied the opportunity to object.

The evaluators examined the approach taken by national authorities to notify potential objecting companies. More pro-active Member States rely on their own databases to contact directly economic operators whose businesses might be detrimentally affected by any suspension. These databases typically consist of contact details for officers within companies which had previously objected. Where Member States do little beyond publishing the list of tariff suspension requests on their websites, companies often depend on pro-active trade associations to bring relevant requests, against which businesses might wish to object, to their attention.

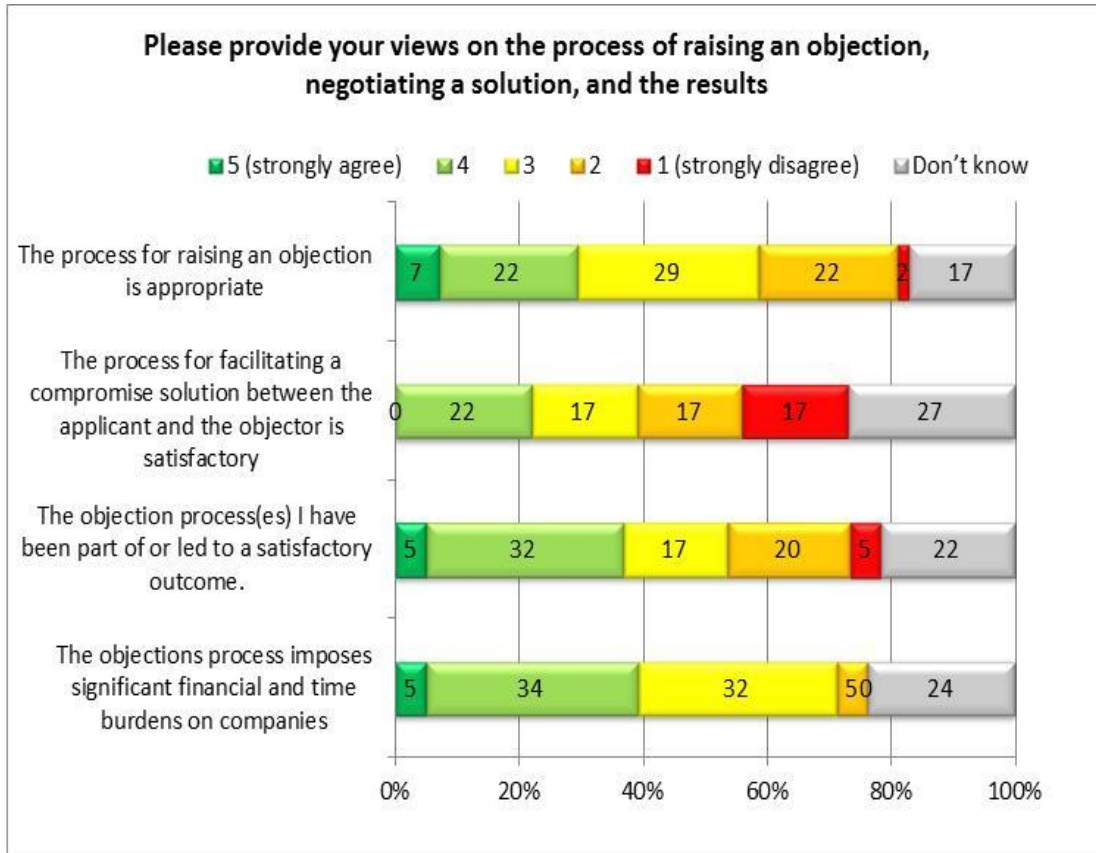
While not wishing to underplay the significance of this issue and the threat posed by lack of awareness to the objections process and overall functioning of the scheme, data provided by DG TAXUD suggests that, on average, across the ten ETQG rounds between 2007 and 2011, approximately 35% of valid requests for tariff suspensions or quotas which reached the ETQG met with objections. Approximately half of these objections were 'successful' i.e. they led to a request being rejected or withdrawn. These figures, although approximate, do indicate that many EU producers are aware of, and avail themselves of, their right to object to suspension requests. This is not to dismiss the calls by some stakeholders for a more uniform approach across the Member States to awareness raising in relation to the objections process.

### ***Time and resources***

**National authorities** interviewed considered that most economic operators were capable of completing the objection form themselves with a minimal amount of assistance. **Economic operators surveyed**, who had taken part in the process as objectors or applicants subject to objections, consider the process imposes significant financial and time burdens (Figure 4.11), although they were more likely than not to agree that the process led to a satisfactory outcome.

A significant number of economic operators responding to the questionnaire indicated their dissatisfaction with the process for facilitating a compromise solution between the applicant and objector (annex 1, question 36). Asked to elaborate during interviews, some applicants expressed their reluctance to share commercially sensitive information with companies with whom they are expected to negotiate. Perhaps of greater concern, both economic operators and ETQG delegates suggested that in some cases economic operators have withdrawn their well-founded objections, seemingly under the **undue influence** of larger businesses (annex 4, question 8).

Figure 4.11: Applicants' views on objections



In terms of the **length of the process** some economic operators, and their representatives within trade associations, suggested the negotiations, whereby applicant and objector are expected to try to resolve their differences, could be quite time consuming, particularly where their interlocutor displayed no sense of urgency to respond to requests for information. While some national authorities insisted they be copied into email exchanges, acting as overseers, other ETQG delegates' involvement stopped once they had forwarded the objecting company's details to the applicant, on whom the onus of contacting the objector then rested.

**Suggested improvements**

Several suggestions were made by the interviewed stakeholders to overcome the main deficiency identified in the objections process, namely the issue of communicating suspension requests to potential objectors highlighted above. Taking **a more uniform approach to the dissemination of tariff suspension requests** to bring the possibility of objecting to the attention of economic operators, is clearly desirable in the minds of many of the stakeholders interviewed. Dedicating time at ETQG meetings to share best practice and perhaps develop guidelines for a stand approach may help to address this issue. **Greater involvement of economic operators' representatives in the form of trade associations** at both EU and national level was also suggested by some ETQG delegates.

## Conclusion

The **application process is largely efficient**. Although almost all applicants receive some national authority assistance, few find significant difficulty in filing the application. Composing appropriate product descriptions and identifying the correct TARIC code present the greatest challenges, particularly for first-time applicants. National authorities vary in the scope of the assistance they provide to applicants, although all are confident in their ability to submit applications efficiently to the ETQG. This confidence is reflected in the fact that economic operators consider their national authorities to be by far the most useful source of help for the submission of an application. According to survey respondents, the majority of applications are completed within five working days, with 73 % of economic operators estimating the cost of filing to be no more than €5,000, and 37 % below €1,000. Economic operators tend to be satisfied with the six month intervals at which applications can be submitted and with the length of time taken to prepare an application.

The **objection process, however, gives rise to significant concerns**. Economic operators agree that the process imposes significant financial and time burdens. Most national authorities offer only limited assistance to companies wishing to make objections and take a hands-off approach to the negotiations between applicant and objector.

Furthermore, the credibility of the objections process risks being undermined in several ways:

- The approach taken to notifying domestic producers of requests which may affect their business is uneven across the EU. Representatives of producer organisations criticise the **current arrangements at both EU and national level for making EU producers aware of suspension requests**, suggesting they ought to be directly informed of requests affecting their sector. Some applicants appear to neglect to check whether production exists in the EU and it is not clear that the system is always robust enough to prevent this.
- Information channels exist at EU level to provide would-be objectors with information on suspension requests in preparation<sup>17</sup> although these were not indicated to be amongst the leading sources of information by economic operators who engaged with the evaluation<sup>18</sup>.
- Should an objector step forward, some applicants are reluctant to share information with companies whom they are expected to negotiate with. Perhaps of greater concern, there is evidence to suggest the success of an objection will not always depend on the appraisal of whether alternative EU production is able to meet an applicant's need. Economic operators and concerned national authorities point to examples where smaller companies have withdrawn their well-founded objections, seemingly under the **undue influence** of larger businesses.

Several other areas of the application process offer room for improvement, with suggestions including the development, at EU level, of step-by-step guidelines for applicants and objectors, translated into all EU languages for use across the Member States.

<sup>17</sup> See footnotes 15 and 16 above.

<sup>18</sup> See above, Figure 4.3: Ways of keeping up with the information regarding the scheme

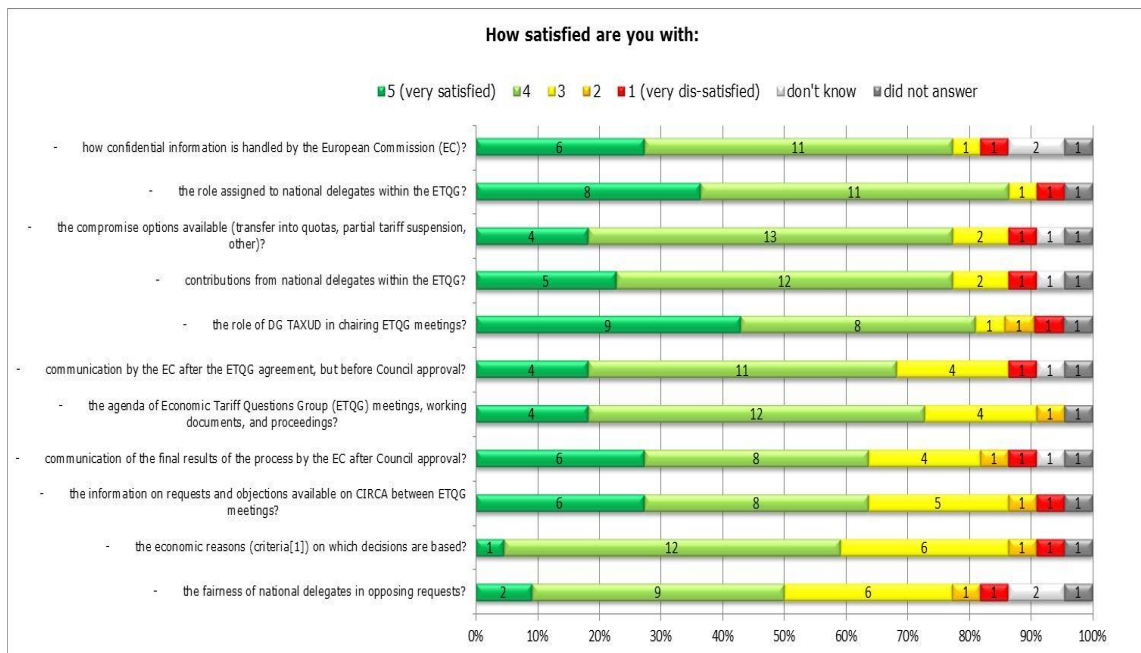
### 4.3. Effectiveness, efficiency and transparency of the decision making process

Evaluation question:  
 To what extent is the decision making process for tariff suspensions effective and efficient? To what extent is it transparent? What improvements, if any, are needed?

Drawing on the same sources as outlined under section 4.2, the evaluation team set out to ascertain the extent to which the decision making process for tariff suspensions is transparent, effective and efficient. This evaluation question looked at the process from the submission of a tariff suspension request by ETQG delegates to the EC to the point a decision is taken on that request, with a focus on the decision-making process within the ETQG itself. Stakeholder opinion was canvassed on possible improvements to the process.

Overall, ETQG delegates surveyed demonstrated a high level of satisfaction with most aspects of the decision-making process, and in particular with the roles of DG TAXUD and national delegates, respectively (see Figure 4.12). Areas for improvement were discussed with delegates interviewed. Economic operators generally found the scheme easy to follow and considered that decisions are made on transparent criteria.

Figure 4.12: ETQG delegates' views on decision-making



#### Transparency of the decision-making process

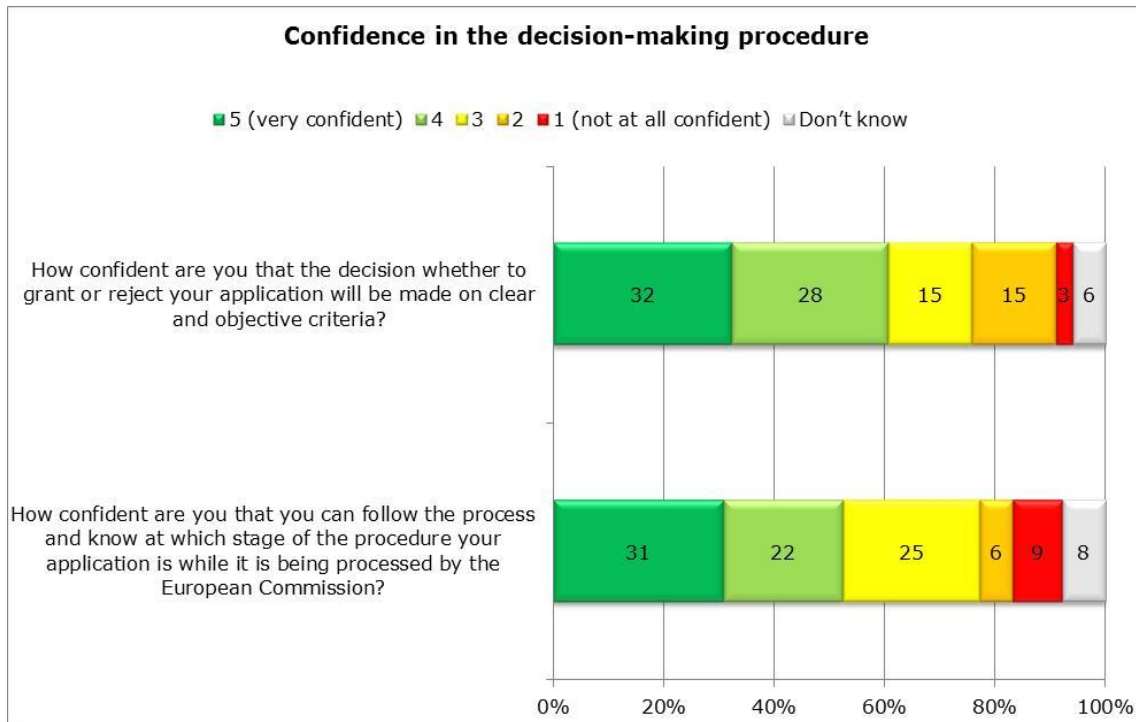
##### Decision-making criteria

The majority of ETQG delegates who completed the survey consider that the decision-making process is transparent, insofar as decisions are based on clear and transparent criteria set out under the 2011 Communication (Figure 1). Two areas caused concern for a number of ETQG delegates surveyed, several of whom were able to elaborate on their views during interviews (annex 4, question 9):

- Whereas the criteria were respected by ETQG members, problems tended to arise on the occasions **where objections were raised by other services within the Commission**. In the latter scenario, national delegates felt that the decision-making process was at its most opaque. The criterion set out under the Communication that tariff suspensions would not be granted *where it would harm the interest of the Union*, was thought to contain the justification for objections by other Commission services. Few delegates, however, could provide a coherent explanation of how this criterion was applied in practice. This problem appears to be compounded by what some delegates described as other DGs' absence from ETQG meetings and apparent unwillingness to enter into dialogue with regard to their objections.
- ETQG delegates were also less than clear on the approach taken by the group on the issue of **substitutability**, the question lying at the heart of most objections. Some economic operators complained that their suspension requests had been unfairly rejected on the grounds that alternative products were being produced within the EU; others thought that requests had been waived through in the face of evidence suggesting substitutes were available. The unifying factor was that most stakeholders, including national delegates, could not identify a consistent approach taken with regard to questions of product substitutability. Some suggested that the diverse range of products with which the ETQG was faced necessarily meant the approach would need to be adapted in light of the products concerned. A larger body of opinion, however, agreed that there was scope to develop the group's approach to this question, with one delegate summing up that *anything which renders the process more uniform and consistent can only be a good thing for business*.

These criticisms notwithstanding, most economic operators surveyed were confident that the decision will be made on clear and objective criteria (Figure 4.13). During interviews, however, some economic operators who had submitted applications that were unsuccessful were not always clear on the reasons they had been rejected.

Figure 4.13: Applicants' views on decision-making



**Following the process**

Whether stakeholders thought they can follow scheme developments (with regard to changes such as the modification or premature closure of existing suspensions) depended on the type of stakeholder answering the question. **ETQG delegates**, with access to CIRCABC, regular meetings, and direct contact with their counterparts in other Member States and DG TAXUD officials, had little difficulty following the scheme’s developments. A few delegates voiced specific concerns, for example that they were unable to understand how the ‘positive’ and ‘negative’ lists with regard to the automatic prolongation of existing suspensions had been drawn up and where the legal basis for these lists lay (annex 4, question 11). These delegates tended to be relatively new, and generally had not participated in the 2010 Istanbul seminar which aimed to improve the working of the scheme.

**Economic operators interviewed were less able to follow developments in the scheme**, including the modification or closure of existing suspensions. One ETQG delegate pointed out that economic operators had a hard time understanding they needed to consult 4 different legal texts (the Regulation and subsequent amendments) if they wanted to search for amendments to products under suspension. More regular consolidation of the relevant texts was suggested to avoid this.

**When asked about their own applications, however, economic operators surveyed were mostly confident that they can follow the process** and know at which stage of the procedure their own application is (Figure 2). During interviews, a few economic operators referred to difficulties, with one referring to applications entering a *black box* upon reaching the ETQG. From this stage of the process the level of information made available to economic operators seems to depend on the ability of national delegates to keep their companies informed.



### **Effectiveness of the decision-making process**

The decision-making process is characterised by good working relationships. The collegial atmosphere of mutual assistance within the ETQG (with linguistic difficulties or sharing technical expertise) referred to by most delegates interviewed (annex 4, question 7), is echoed in the good relations between seasoned 'repeat applicants' and long-serving ETQG delegates, some of whom have been in post for more than two decades. More recently appointed delegates spoke warmly of the assistance provided by DG TAXUD, for example assisting in the uploading of documents on to CIRCABC for the first time.

**ETQG delegates** agreed that the decision-making process was **effective**, i.e. that it enables informed decisions to be taken. Interviewed delegates commented that the round table discussion within the group, ably chaired by DG TAXUD, allowed diverging opinions to be taken into account. The fact the three meetings in each round take place across a period of months allows time for relevant information to come to the fore.

**Economic operators** and trade associations interviewed were more likely to express doubts with regard to the process's effectiveness, with some interviewees pointing to examples where they considered suspensions had been granted unjustifiably, mostly because the ETQG had failed to take account of existing EU production (annex 2, section 2.2.d).

This problem appears to be most acute in industries with a high proportion of SMEs. The communication problems specific to reaching SMEs have been outlined above, with the result that they are less likely than larger businesses to launch objections against suspension requests, of which they remain largely unaware. Some trade associations thought these problems could be avoided were the decision-making process to be modified to allow bodies representing EU industry a role in the process.

Trade associations argued, and a number of ETQG members agreed, that they should be accorded a greater role in the process, claiming their involvement would enable the group to take better informed, more effective decisions by taking account of information which might otherwise be unavailable to them. While at the moment, the most pro-active associations provide assistance to their economic operator members, trade association interviewees thought their organisations could play a greater role:

- informing EU industry of tariff suspension requests (and thus raising awareness amongst companies which may wish to object);
- taking a role of silent observer at ETQG meetings – this possibility was also suggested by one of the more liberal Member States; and
- submitting observations and even advocating on behalf of their members, where objections are raised on the grounds of existing EU production.

The current situation is such that trade associations, which are unable to engage directly with the decision-making procedure, nevertheless attempt to influence DG TAXUD and the group: sending open letters to the Commission, for example, some of which the evaluators were able to examine when considering the decision-making process.

While a few ETQG delegates were enthusiastic about the prospect of according a greater role to trade associations within the group, most thought that this was not desirable (annex 4, question 16). This view held that allowing submissions (either orally or in writing) by interested parties could introduce a partisan, quasi-judicial element which would be inappropriate given the group's function is to make non-binding recommendations. Nevertheless, several ETQG delegates did agree that there

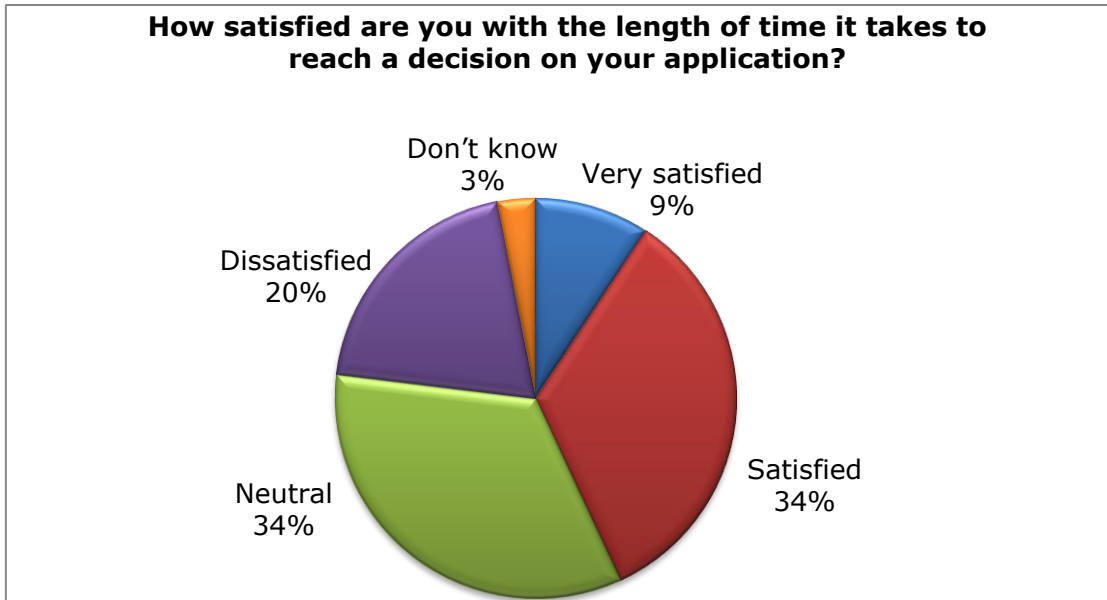
was some scope for according trade associations a greater role in the process, not least in helping to overcome the communications gaps highlighted with regard to the objections process under section 4.2.

While many **applicants and objectors** spoke of good communication channels, whereby their national delegate would call or email after every round’s meeting, informing economic operators of the outcome and likely next steps, other businesses heard nothing until the suspension requested was either granted or turned down. Some economic operators were understandably frustrated with this approach which they felt ‘*kept [them] in the dark*’, and the failure to provide information extended beyond the decisions of the ETQG to include the consequences of being granted a suspension. In one particularly egregious example, an economic operator reportedly only found out that its newly granted suspension was subject to end-use controls once the customs authority asked for relevant documentation upon the goods’ arrival in the country.

**Efficiency of the decision-making process**

Economic operators surveyed tend to be satisfied with the length of time it takes to reach a decision, with more than 40 % being (very) satisfied, and only 20 % being dissatisfied (Figure 4.14). The interviews suggest economic operators appreciate the length of time is necessary to reach agreement amongst the EU’s Member States, although a few were frustrated with the time taken and its failure to reflect the need for businesses to move quickly in changing markets.

Figure 4.14: Applicants’ view on time taken to reach a decision



A few businesses pointed out that they had started importing the product subject to a request, in anticipation of a suspension being granted, while accepting the duty paid as a *loss leader*. Failure to do this, they explained, would equate to giving ground to a competitor. One customs agent, accustomed to advising multi-national companies with manufacturing facilities across the EU, when interviewed at the familiarisation stage went so far as to suggest the time between a suspension being announced and its entering into force should even be *extended*, thus allowing the applicant’s competitors the time to prepare to take advantage of the duty suspension and ensuring a level playing field. This point would be particularly relevant where the

suspension was to be subject to end-use controls requiring any beneficiary to apply for, and wait to be granted, an end-use authorisation.

In terms of the **resources devoted to the ETQG decision-making process** none of the delegates interviewed considered this to be disproportionately great. Very few of the delegates interviewed spent their time exclusively on administering the tariff suspension scheme and most had been in post for a considerable time. This low staff turnover meant that in most Member States the delegates had encountered many of the same issues several times and were well equipped to deal efficiently with questions raised both by other delegates and their economic operators.

Economic operators were generally unable to comment on the resources devoted to the decision-making (c.f. resources dedicated to the delivery mechanisms considered under section 4.2 above). In cases where applicants or objectors were asked to provide further information before the group could deliver its opinion, these requests for information could usually be met without significant difficulty according to interviewees.

### ***Suggested improvements***

*A series of improvements to the decision-making procedure were suggested by the stakeholders whose opinion was canvassed during the data collection stage. These suggestions correspond to the concerns outlined in the preceding sections on transparency, effectiveness and efficiency and can be grouped under three headings:*

#### *1. Communications issues*

- Several economic operators commented that once their applications had been submitted to the ETQG they were totally dependent on their national delegates in order to understand the status of their request. Greater transparency was suggested by those economic operators who had been frustrated by this lack of information, and suggestions for improving this situation included publishing regular status reports on national authorities' websites to allow companies to track their applications more easily.
- Several trade associations thought they could play a greater role informing EU industry of tariff suspension requests.
- Several ETQG delegates did agree that, in principal there could be a greater role for trade associations, not least in helping to overcome the communications gaps highlighted above.

#### *2. ETQG meetings – administrative arrangements*

Suggestions for rendering the ETQG's meetings more efficient occupied the mind of delegates who came up with a range of suggestions to better deal with the group's increasing workload.

- The majority of ETQG delegates interviewed stressed that they did not want to attend more meetings. Extending the length of ETQG meetings (or holding a fourth meeting<sup>19</sup>) had been suggested by a few interviewees as a solution for dealing with the increasing number of applications.
- The majority of delegates, who did not wish to hold more meetings, was more vocal in calling for a greater role for CIRCABC, which they thought

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<sup>19</sup> Longer serving delegates reminded the evaluators that this was how things used to be done.

could be used to resolve several of the details which currently occupy the group's attention, such as agreeing translations of product descriptions in languages other than English or discussing classification matters. Indeed, where delegates were asked to proffer their opinion as to how the process might be made more efficient, a recurring theme was the need to increase the use made of CIRCABC.

- Increasing the group's reliance on CIRCABC would necessitate improving the existing site, which some delegates described as being difficult to navigate. In particular, several delegates told the evaluation team during interviews that they found it difficult to search for documents relevant to specific applications and some wondered whether the search function or naming convention for documents could be made more user-friendly.
- Several ETQG delegates did agree that, at least in principle, there could be a greater role for trade associations within ETQG meetings, perhaps granting relevant associations observer status, with the idea of providing the group with data to which it might not otherwise have access. The majority of delegates, however, were sceptical of involving economic operators or trade associations directly in ETQG meetings.

### 3. Criteria for reaching decisions

While ETQG members were generally happy that most applications put forward by their counterparts would be justified on the basis of clearly defined and well understood criteria a couple of *grey areas* were thought ripe for further consideration:

- **Substitutability** of products – Given the amount of literature devoted to this issue in relation to other areas of EU policy (e.g. the definition of a relevant market in competition law<sup>20</sup>) an examination of whether a consistent approach could and should be taken across EU policy areas, including the tariff suspension scheme, would seem to be worthwhile.
- **Objections from other Commission services** – With the majority of delegates apparently unclear on the approach taken to raising objections by other Commission services, there appears to be scope for guidelines on how the criterion relating to other Union interests will be applied transparently in practice and clarifying the communications obligations of other Commission services when raising objections.

## Conclusion

**The ETQG's decision-making procedure generally functions effectively and efficiently.** The process is, in general, characterised by good working relationships. Delegates speak warmly of the assistance provided by DG TAXUD, and the process within the ETQG seems to work efficiently by drawing on the strengths of the group's members, particularly with regard to technical questions e.g. agreeing product descriptions. The collegial atmosphere of mutual assistance within the group is echoed in the good relations between seasoned 'repeat applicants' and long-serving delegates, some of whom have been in post for more than two decades. While some delegates

<sup>20</sup> See for example [http://europa.eu/legislation\\_summaries/competition/firms/l26073\\_en.htm](http://europa.eu/legislation_summaries/competition/firms/l26073_en.htm)

consider the increasing number of suspension requests requires more meeting time, the majority look to CIRCABC as a more efficient forum for resolving many of the issues discussed by the ETQG prior to its meetings.

**The ability of stakeholders to follow scheme developments varies significantly.** ETQG delegates, with access to CIRCABC, regular meetings, and direct contact with their counterparts in other Member States and within DG TAXUD, have little difficulty. Economic operators are less likely to consider developments in the scheme easy to follow (in relation to premature closures or the modification of existing suspensions), although they are better able to follow the progress of their own applications and objections through the decision-making process. The level of information made available to economic operators depends almost entirely on the ability of national delegates to keep their companies informed.

Member States generally feel confident that objections put forward by other national delegates would be in good faith, well-reasoned and transparent. They are less confident **where the opposition to suspension requests comes from other Commission services.** Indeed the process is at its most opaque where the interests of other branches of the Commission are at stake. The delegates' sense of a less than level playing field is most acute where other DGs fail to explain their objections in the ETQG and then refuse to enter into dialogue with the Member States. The criterion set out under the Communication that tariff suspensions would not be granted *where it would harm the interest of the Union* causes confusion. Few stakeholders, including ETQG delegates, are able to provide a coherent explanation of how this criterion is applied in practice.

Opening up the ETQG to take account of the views of other Commission services, economic operators or their representatives has been suggested by some stakeholders as a means of enabling the group to take better informed decisions. While at the moment, some trade associations provide assistance to their economic operators members, from conducting research on alternative EU production, to providing advice on filling out the forms, several EU-level organisations desire a greater role:

- informing EU industry of tariff suspension requests against which their members may wish to object;
- acting as observers at ETQG meetings;
- submitting observations and even advocating on behalf of their members, where objections are raised on the grounds of existing EU production.

There are pros and cons to according a role to industry associations: on the one hand, their participation could render the process more effective, allowing the group to base its recommendations on evidence which might otherwise be unavailable to it. As things stand, trade associations will seek to use informal channels to influence the group. According to one view, it is better to have these discussions within the transparent forum of the ETQG, rather than *under the table*. On the other hand, the concern is that increased 'outside' involvement in the ETQG would shift the decision-making process to a quasi-judicial footing, and it is not clear that this could be avoided by clearly defining any role to be afforded to these observers.

#### 4.4. Effect on enforcement efforts and administrative burden

Evaluation question:

To what extent has the scheme increased the enforcement efforts of national administrations? What improvements can be made to reduce administrative burdens on economic operators?

To answer this evaluation question the team focussed on the enforcement of end-use controls under the tariff suspension scheme across the Member States. The team examined the experience of both national customs administrations and economic operators benefiting from suspensions subject to end-use controls. Please note that administrative burden (and/or compliance costs) that relate to other aspects of the scheme, in particular the application and objection processes, are discussed in section 4.2.

To supplement the results of the questionnaire completed by ETQG delegates and the subsequent interviews carried out with some of those delegates, the evaluation team decided to conduct a further five interviews with representatives of national customs administrations. The team had found that while ETQG delegates, usually drawn from national ministries of economics, business or finance, had frequently liaised with customs officials to complete the questionnaire, there were gaps in their interview responses in relation to end-use enforcement under the scheme which could be best filled by speaking to the responsible customs officials directly.

In addition to the data gathered from national authorities, one third of the economic operators who responded to the evaluation survey benefited from suspensions granted subject to end-use controls. The evaluation team were able to follow up with some of these businesses during in-depth interviews, examining their experience of end-use controls relating to tariff suspensions and their enforcement.

##### *Time and resources spent*

##### **National administrations**

The ETQG delegates' questionnaire responses reveal that for most Member States the enforcement of end-use controls relating to the tariff suspension scheme is **not considered by the relevant authorities to be an excessively time consuming exercise** (annex 4, question 12). The enforcement of the controls, no matter the size of the Member State in question, tends to fall within the competence of the customs administration at local level with controls carried out at the location of production.

While the evaluators discussed questions of resources dedicated to these controls with customs officials in the follow up interviews, the decentralised nature of their administration makes it **difficult to estimate the resources engaged**. Furthermore, as became apparent during the follow up interviews, end-use controls under the auspices of the tariff suspension scheme will frequently be enforced in the context of a wider customs audit.

Most national authorities who responded to the questionnaire agreed that, while they did impose some administrative burden on businesses, end-use controls were a reasonable trade-off in return for the cost savings businesses could obtain through the avoidance of tariff duties under the tariff suspension scheme.

**Economic operators**

Companies selected for end-use control enforcement checks were chosen by a mixture of **random sampling and risk profiling**. In many Member States, customs authorities explained, companies which benefitted from a tariff suspension subject to end-use control were more likely to be the subject of a customs audit.

Most economic operators surveyed, that did have experience of end-use controls relating to products benefitting from a tariff suspension, estimate their staff cumulatively spend 10 days or fewer on an annual basis complying with end-use controls (Figure 4.15), with half-spending €5,000 or less on compliance (Figure 4.16). The majority estimate they spend less than five % of the cost savings from the suspension on resources devoted to complying with end-use controls.

Figure 4.15: Time spent by applicants on end-use controls

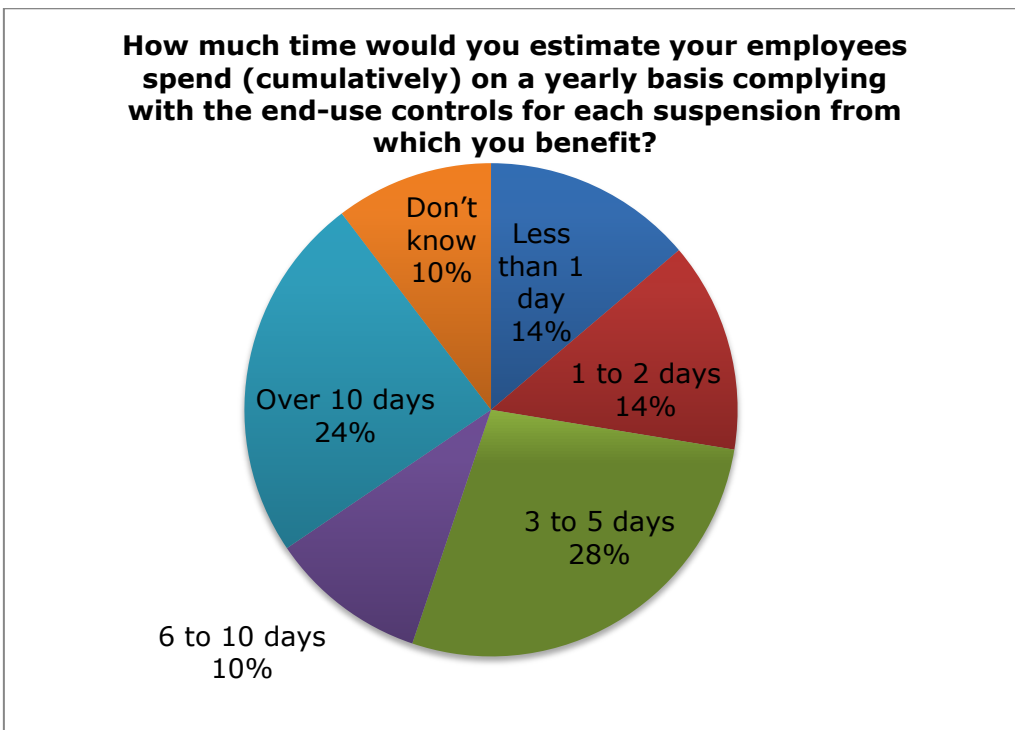
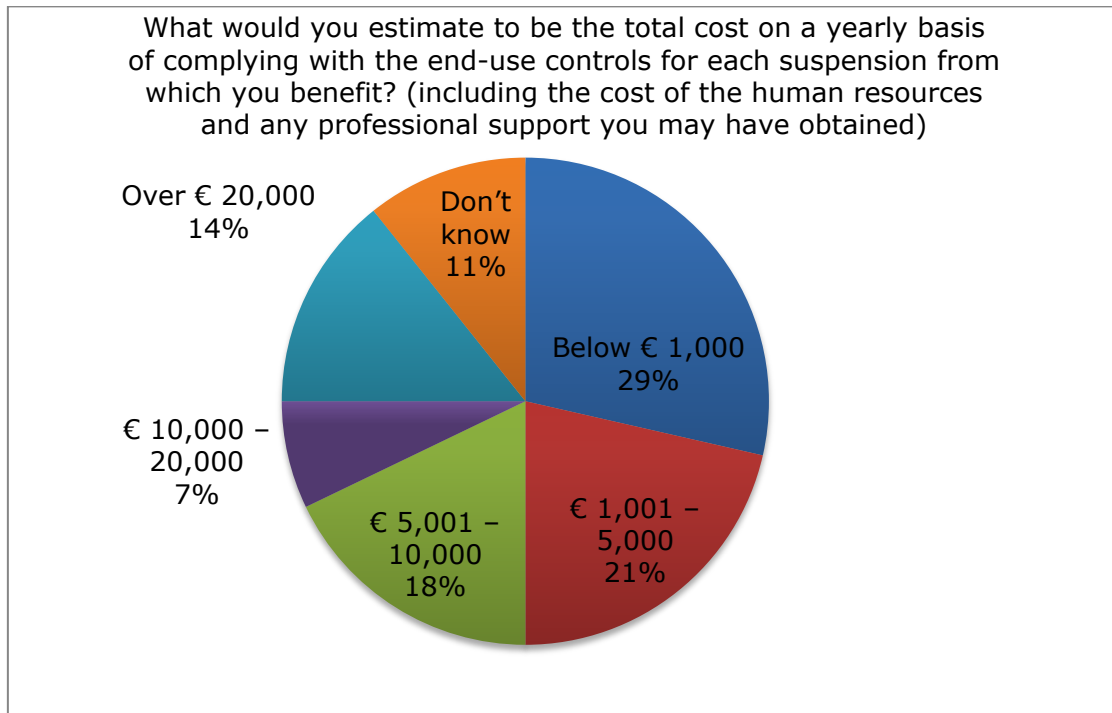


Figure 4.16: Cost of end-use controls according to applicants



The interviews with economic operators suggest that **the time and resources dedicated to end-use compliance with regard to the tariff suspensions scheme varies significantly depending on the Member State** in which they are conducted (annex 2, section 2.1.e). Economic operators spoke of variations between the Member States in terms of the severity, frequency and flexibility shown towards economic operators subject to enforcement. The process appears to vary from simply requiring economic operators to present a declaration that a given product subject to a tariff suspension or quota will only be used for a defined purpose, to very thorough inspections at the production site, including counting the physical stock of the product and an in-depth analysis of industrial reports (amount of components entering the factory compared to the amount of finished products exiting the plant).

One economic operator suggested that *'the excessive amount of detail and the technical calculations of the end-use controls [could] be avoided by relying uniquely on a producer statement'*. Another urged customs authorities to take a more pragmatic approach, arguing that *'Member States should look more from a technical perspective of the products. For many products under suspension with end-use-relief it makes not so much sense to use it for other purposes'*.

While some economic operators whose suspensions were subject to end-use controls spoke highly of the attitude taken by their national customs administrations, who had reportedly been helpful in terms of granting temporary licences in anticipation of application forms being processed, one suggested it felt more like an *inquisition* with customs trying to catch them out.

These examples, although anecdotal, do point to a more serious underlying issue: in some cases, particularly where multi-national companies operate manufacturing facilities in more than one EU country, **the administrative hurdles placed in their way by customs authorities are a factor which influences their decision of where to produce a product** using inputs benefitting from a duty suspension



subject to end-use controls. According to some economic operators, this has the effect that certain Member States may ultimately lose jobs to those where the process is handled more flexibly.

### ***Irregularities and other difficulties***

Most customs officials agreed that irregularities were very rare in their occurrence and consisted of mistakes rather than deliberate attempts to commit fraud (annex 4, question 14). These mistakes commonly fell into two categories:

- **goods were sold as finished-products;** and
- **goods were not processed prior to the expiration of the end-use authorisation** (set for a pre-determined period when companies are granted an end-use licence).

Such violations of the terms of an end-use licence would result in the relevant customs authority imposing a fine on the transgressing economic operator.

Amongst the **other difficulties with the enforcement of end-use controls** relating to the tariff suspension scheme highlighted in stakeholder questionnaire responses and interviews were:

- **Communication problems**, mentioned by a few of the customs authorities interviewed. In one case a customs official expressed dismay that a successful applicant had not been informed by the responsible ETQG delegate that its product suspension would be subject to end-use controls. This left the economic operator ill-prepared for subsequent enforcement.
- Some interviewees suggested **the bond** or surety, which the customs authorities may ask economic operators to provide as a condition for an end-use authorisation being granted, initially surprised some economic operators who had not been made aware of this by their ETQG delegate<sup>21</sup>.
- Several economic operators interviewed agreed **that issues relating to the expiration of the end-use authorisation** could prove challenging. One of the factors used to calculate the bond payable was the length of time companies intended to store a product prior to its processing. According to both customs officials and economic operators interviewed, businesses found this difficult to calculate and the latter were frustrated by the lack of flexibility shown where they exceeded the length of time within which authorities expected them to have processed the product. The time limit discouraged stockpiling and some businesses complained this was an unnecessary hindrance to their ability to plan ahead.
- One customs authority expressed **concern at the impact any removal of the T5 control copies**<sup>22</sup> in future customs legislation would have on their ability to enforce controls effectively: *'If there is no such document how could*

<sup>21</sup> For example, in Ireland economic operators are advised that an end-use authorisation is normally granted subject to the lodging of security and the signed acceptance by the applicant of certain conditions. [...] Where security is required, [the customs authority] will determine the nature and amount of such security, which will normally take the form of a bond. See: Irish Tax and Customs Customs End-Use, Guidelines for Traders (March 2013) Available at: [www.revenue.ie/en/customs/leaflets/end\\_use\\_guide.pdf](http://www.revenue.ie/en/customs/leaflets/end_use_guide.pdf)

<sup>22</sup> The T5 control copy is intended to supply proof that the goods in respect of which it was issued have either been used in the way, or have reached the destination provided for by the specific Community provisions governing their use. The document can also be used to inform the competent authorities of the destination MS that the goods which it covers are subject to special measures.

*we perform the end-use control and how could we track the goods; If in the future there will not be T5 control copy then the Commission should think over some other instrument to replace the now existing paper document'. A possible solution suggested by the authority was 'the creation of an additional module to the ICS (Import Control System) for all goods with end-use (with or without tariff suspension) in which all MS involved may track the consignment up to finalising the end-use control'.*

### **Suggested improvements**

Overall, customs administrations had little in the way of concrete suggestions for how the burden on economic operators might be lifted, concluding this was not a pressing issue. Unsurprisingly, where they have experience of enforcement regimes in more than one country, economic operators interviewed favour less intense means of enforcing end-use controls, rather than the stricter controls which appear to be carried out in some Member States.

Suggestions for improving the administration of end-use control enforcement by national customs administrations included:

- **improving risk analysis**, whereby customs administrations select companies for an audit. According to one ETQG delegate, this would imply increasing the capacity of customs officers to carry out the task. *'All end-use controls are based on risk analysis. In order to make end-use controls effective and efficient [we need to] improve the competence development within this area among customs officers'.*
- Also on the theme of **training and capacity building**, one customs official from a newer Member State suggested the Commission's input would be welcome to increase awareness and ensure the uniform enforcement of end-use controls under the scheme amongst customs administrations in Eastern Europe. This interviewee thought the difficulties encountered by administrations across the region were similar and pointed to the need for sharing experience, possibly inviting customs authorities from more experienced Member States to explain how they dealt with certain administrative difficulties. Economic operators, particularly those operating in several Member States agreed with the need to align the enforcement of end-use controls across all Member States.
- **The use of e-learning** was suggested by one customs administration as an efficient means of increasing the knowledge of customs officials at local level.
- **Making the process less onerous on and more attractive to SMEs** was mentioned by several ETQG delegates in relation to several aspects of the scheme. One delegate suggested the burden on SMEs could be reduced by exempting smaller businesses from the need to comply with end-use controls relating to the scheme. .

Some ETQG members and customs authorities **questioned the need for continuing end-use controls**. One customs authority commented: *'the procedure for tariff suspension granting is complicated enough and we think that adding end-use control to this scheme puts a burden both [on the] administration and business operators. A step toward simplification may be putting an end to binding tariff suspension with end-use control'.* Another delegate however represented the views of many in the group commenting that economic operators would make their own decisions on the necessary trade-off between the cost of compliance and the benefits afforded by a suspension: *'The controls are only accepted when there is no economic alternative to*

*companies other than having a suspension with end-use controls, given how burdensome they are’.*

## **Conclusion**

While a minority of Member States find the enforcement of end-use controls relating to the tariff suspension scheme to be a significant additional burden on their customs administrations, most are able to conduct the controls efficiently within the context of their broader customs responsibilities. The majority of national customs administrations thus did not consider the scheme had increased their enforcement efforts significantly.

Economic operators agree that where end-use controls are carried out as part of a broader customs audit they do not significantly increase their administrative burden. Most economic operators estimate they spend less than five % of the cost savings from the suspension on complying with end-use controls.

There is evidence to suggest national administrative arrangements for end-use control enforcement relating to the tariff suspension scheme vary considerably between Member States in their severity, frequency and the flexibility shown towards economic operators. The *administrative hurdles* placed in their way by customs authorities are a factor which can influence multi-national businesses in deciding where to produce products using inputs which benefit from a suspension subject to end-use controls, with the effect that some Member States may ultimately lose production facilities and jobs to those where the controls appear to be handled more flexibly.

Member States are not deaf to the difficulties faced by SMEs who rely on suspensions subject to end-use controls and several propose modifying the regime as enforced on smaller companies. This softer enforcement regime might include removing the obligation for smaller businesses to comply with end-use controls under the scheme.

Looking at the scheme’s longer term viability, opinion is divided as to whether end-use controls ought to continue in their present form, providing a *surety* to domestic producers that ‘their’ market will not be invaded, or whether they could be done away with.

## 5. Evaluation results: The suspensions scheme's impacts

Previous sections of this report have described the key features of the scheme for the suspensions of autonomous CCT duties, explained how the scheme is intended to work, presented an overview of the characteristics of the scheme between 2007 and 2011 and described the extent to which the implementation process of the scheme was successful.

In this chapter, we build on that preceding analysis and assess the extent to which the suspensions scheme has achieved its intended objectives, as specified in the intervention logic.

The impacts of the scheme are, to some extent, influenced by the success of the implementation process and so it is not possible to entirely separate the analysis contained in this chapter from that of the previous chapter. However, the focus of this chapter is on assessing the impact of the scheme on the competitiveness of EU enterprises, the conditions for SME growth, patterns of trade and the EU's leverage in trade negotiations, taking the implementation process as an exogenous factor.

### 5.1. Impact on competitiveness of EU enterprises

Evaluation question:

To what extent has the tariff suspension scheme boosted the competitiveness of the EU enterprises?

#### **Extent to which tariff suspensions scheme has reduced costs of those firms that use a suspended product as an input**

One of the key purposes of the tariff suspensions scheme is to reduce the costs for manufacturers based within the EU. The reduction in input costs is a critical first step towards achieving positive impacts such as increased competitiveness of EU firms, greater demand, higher output, greater profitability and greater (or maintained) employment levels. If the scheme has failed to reduce costs of those firms that use a suspended product as an input, it is unlikely to have achieved any of these desirable objectives.

Figure 5.1 shows the amount of tariff revenue foregone due to autonomous tariff suspensions between 2007 and 2011. This represents the maximum potential cost saving to EU producers over the period covered by this evaluation. In practice, the actual benefit for EU producers is likely to be lower than indicated in this Figure because of the fact that, in some cases, a proportion of the duty saving may be retained by the importer of a product and not passed through to the manufacturer.

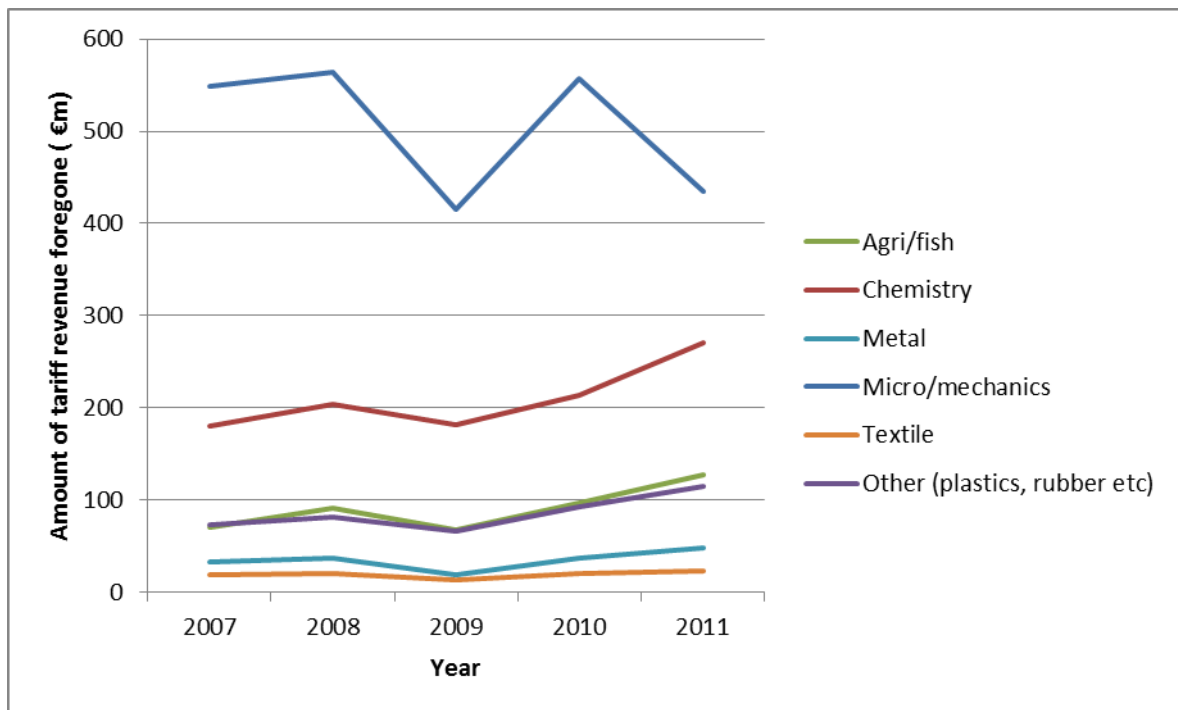
Figure 5.1 shows that the tariff suspensions scheme has the potential to deliver a non-trivial cost saving to EU manufacturers. During the period covered by this evaluation, the total value of foregone tariff revenue is €4.7 billion. This equates to an average saving of approximately €3m per TARIC code linked to suspensions although as indicated by the figure above, the duty savings are not distributed evenly across

sectors. The same is true at the product level. Indeed, a single product (LCD modules,<sup>23</sup> which belongs to the micro/mechanics product category) accounted for approximately 35 % of all imports of suspended products between 2007 and 2011 while the ten products with the highest EU import values accounted for an average of 54 % of all imports to the EU under CCT duty suspension.<sup>24</sup>

The Figure also shows that the micro/mechanics product category has accounted for a significant proportion of total foregone tariff revenue between 2007 and 2011. An average of approximately €500m of tariff revenue from micro/mechanics products was forgone each year between 2007 and 2011 but the trend has been rather volatile for this product group.

The next three largest groups in terms of total tariff revenue foregone – chemistry, agriculture/fish, and other goods – all show a general upward trend in the amount of tariff revenue foregone through the importation of products in these groups. This is in contrast to micro/mechanics, which has seen an overall reduction in the amount of tariff revenue foregone over the period. The value of tariff revenue forgone from metal and textile imports has been roughly constant.

Figure 5.1: Value of foregone tariff revenue due to tariff suspension scheme: 2007-2011



Source: DG TAXUD; Europe Economics' calculations

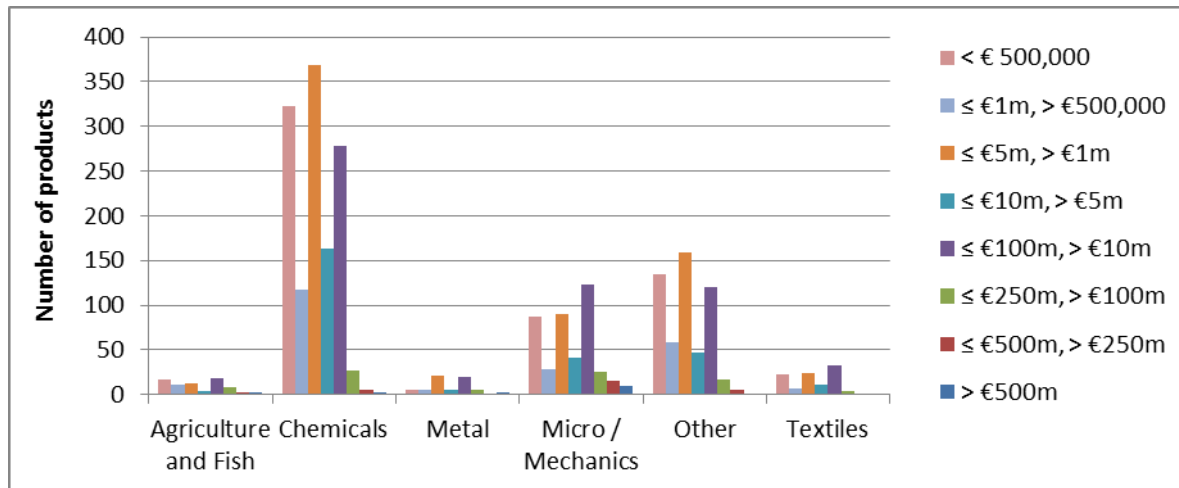
Figure 5.2 provides a more detailed picture of the breakdown by products. In particular, it shows, for each product category, the number of products for which the total value of trade over the period covered by this evaluation lay within a specified

<sup>23</sup> The TARIC code for this product is 8529 90 92 44.

<sup>24</sup> DG TAXUD (2012), "Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011)", page 11

monetary range.<sup>25</sup> The Figure shows that there are significant differences in the value of trade (and hence the value of duty savings) within each broad product category. The chart also shows that there is generally a ‘triple-peak’ with respect to the value of imports under suspension: the majority of products within each category have import values of less than €500,000, between €1m and €5m or between €10m and €100m.

Figure 5.2: Distribution of trade in tariff suspended products, by broad product category



At the firm level, the distribution of duty savings is similarly diverse. In some cases, only the applicant firm benefits from the tariff suspension whereas a larger group of European manufacturers benefit in other cases. Our case studies, which are reported in full in Annex 5, provide evidence for the full range of these outcomes.

For example, a microelectronics manufacturer reported that it faces competition from firms based within the EU as well as in low-cost countries such as China. It stated that its competitors have made use of the tariff suspension that was granted to it. By contrast, a diaper manufacturer indicated that the tariff suspensions scheme has helped its competitive position with respect to other multinational firms. Given that statement, it is likely that the bulk of the benefits of that particular suspension accrued to the applicant.

It is not possible to identify the extent to which the foregone revenue reduces manufacturers’ costs using data that are available from DG TAXUD alone. Furthermore, the value of foregone revenue is an upper bound of the true cost to the EU given that the governments of Member States would recover additional sales tax revenue if the tariff suspensions scheme has led to an increase in production and sales. These issues are examined below.

To understand the extent to which the foregone revenue is passed through to manufacturers, it is necessary to secure information from those companies that import products under suspension. We obtained information from suppliers through a questionnaire and interviews.

In our online survey – the full results of which are presented in Annex 1 – we asked respondents to specify the strategy that they use to import suspended products from

<sup>25</sup> Note that the total number of products in this figure exceeds that annual average of slightly more than 1,600 because some products were granted a suspension during the evaluation period while the suspensions that applied to some other products were not renewed.

non-EU countries. As shown in Figure 5.3, respondents provided this information for 149 products, only 4% of which were imported via an intermediary company. Therefore, our survey found that the vast majority of products specified by respondents were imported directly by the manufacturer. This suggests that the potential unintended consequence that an importer would retain the duty saving and that the producer would not benefit has not been borne out in practice. It further suggests that the vast majority of forgone tariff revenue has resulted in lower costs for EU producers.

**Figure 5.3: Access to suspended items**

Mode of access to suspended items imported from outside the EU

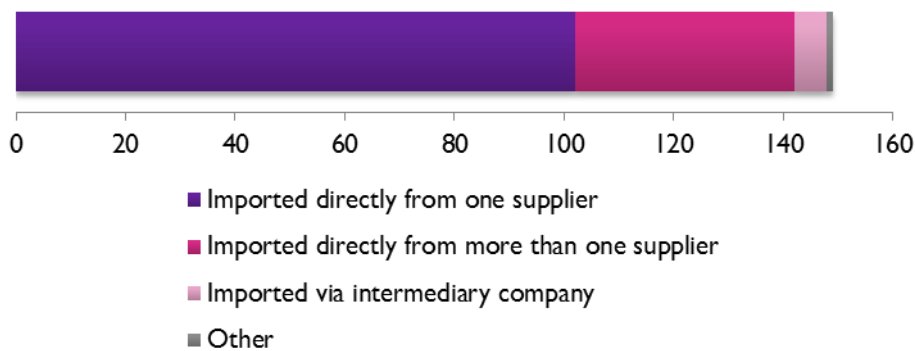
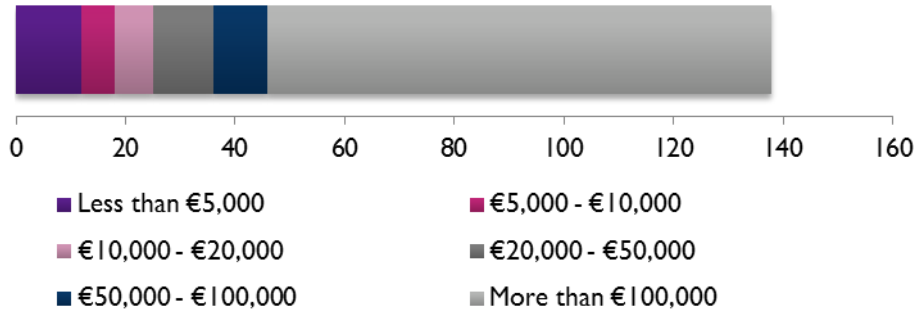


Figure 5.1 illustrated the amount of tariff revenue that was saved by all companies that imported suspended products between 2007 and 2011. To understand the impact on the tariff suspensions scheme on the costs of individual companies we asked survey respondents to estimate the duty saved between 2007 and 2011 for each of the products (maximum of three) that they have imported under suspension.

Figure 5.4 shows that of the 138 products for which respondents provided this information, the amount of duty saved between 2007 and 2011 was more than €100,000 for a significant majority. The remaining 46 products were roughly evenly distributed between the other response categories. This analysis suggests that, overall, survey respondents generally benefitted from a sizeable financial saving due to the tariff suspensions scheme (although 'sizeable' is of course a relative term – see the further analysis below).

**Figure 5.4: Duty saved per product**

Distribution of duty saved between 2007 and 2011 on each product



While the financial cost savings appear to be significant, an important determinant of the real impact of the suspensions scheme on EU manufacturers is the proportion of total import costs that is accounted for by products imported under suspension. The impact of the scheme on price, employment, production volumes etc. is likely to be greater if products imported under suspension account for a large proportion of total production costs of the final product with duty-suspended inputs than if they account for a small proportion of these costs.

We explored this issue in two ways through our survey. We first asked respondents to specify the percentage of intermediate costs<sup>26</sup> accounted for by duty-suspended inputs and then asked them to specify the percentage of total production cost that is attributable to suspended inputs.

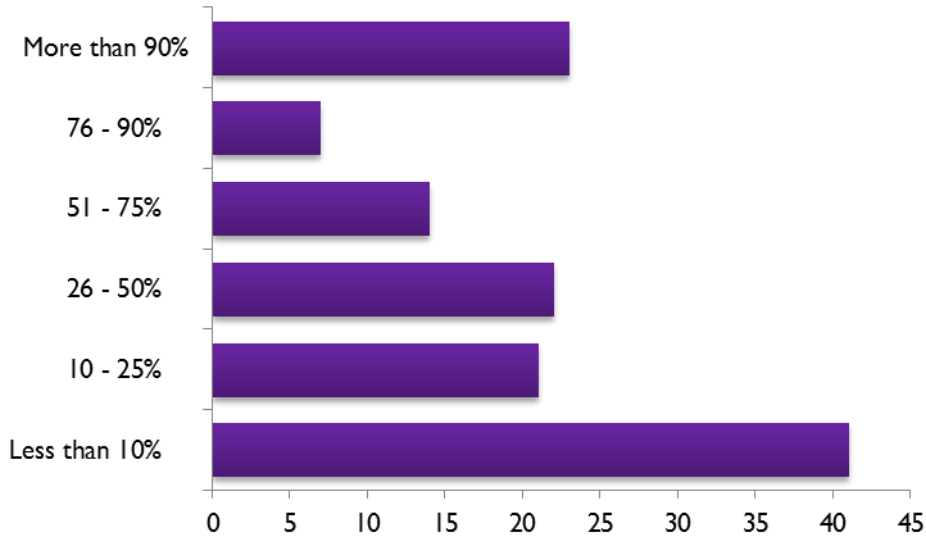
Survey respondents estimated the percentage of intermediate cost accounted for by duty-suspended inputs for 128 products. In approximately one-third of cases (41), the duty-suspended input accounted for less than 10 % of total intermediate cost and, in general, relatively few suspended products account for a high proportion of intermediate cost. However, significant exceptions to this are 23 products which accounted for more than 90 % of intermediate costs.

<sup>26</sup> "Intermediate costs" are defined as non-capital costs that are associated with transforming inputs into outputs. They include the costs of inputs and labour.



**Figure 5.5: Suspended product as a percentage of intermediate costs**

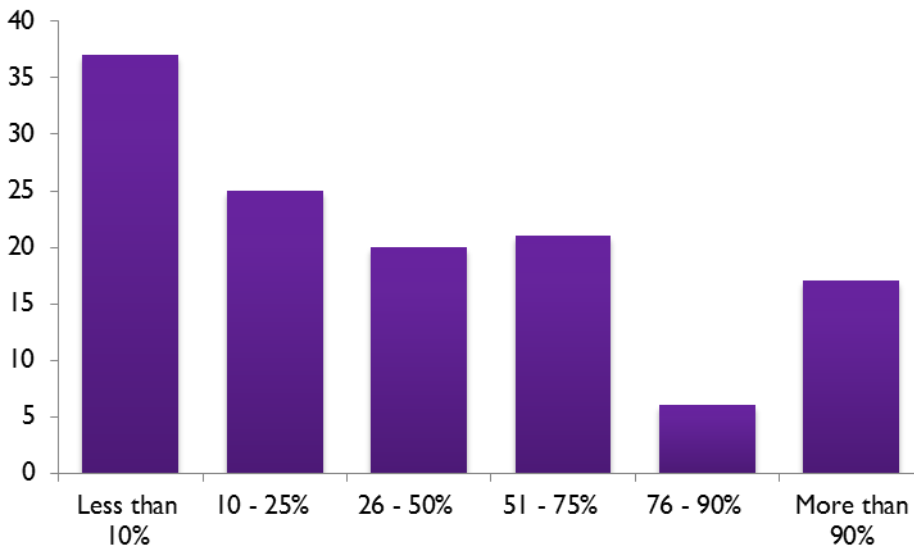
Distribution of percentage of intermediate cost accounted for by duty-suspended inputs



With respect to the proportion of total production costs that can be attributed to the suspended product, we find that (somewhat unsurprisingly) the distribution is similar to that of intermediate costs. Of 126 products for which information was provided, 37 accounted for less than 10 % of final production costs on one end, and 17 for more than 90 %.

**Figure 5.6: Suspended product as a percentage of total production cost**

Distribution of percentage of total production cost accounted for by duty-suspended inputs



Taken together, Figure 5.5 and Figure 5.6 show that there is some disparity between firms and products with respect to the cost importance of suspended inputs. This diversity was also evident in our case studies. For example, an air-conditioning unit manufacturer stated that cost of aluminium foil represents less than 10 % of the total production costs of the final product while a manufacturer of car parts stated that the

metal cartridge is one of more than 20 components used in the manufacture of seatbelts and represents only a small part of the cost of producing the final product. By contrast, a manufacturer of anchors and related products estimated that the cost of the anchor head accounted for between 51- 75 % of the total production costs of the final product and a manufacturer of high performance materials stated that the cost of the ARF/KRF accounts for more than 90 % of the total costs of the final product.

The survey results also provide some interesting results by business activity. For example, we find that the proportion of cost accounted for by the suspended product is typically relatively high for those firms that operate in the chemicals, chemical products and manmade fibres sector. Approximately 37 % of survey respondents operate in this sector but the sector accounts for 56 % of those for whom at least one suspended product accounts for more than 90 % of total production costs and all of those for whom the figure is 76-90 %. By contrast, only 25 % of those for whom the suspended product accounts for less than 10 % of total production costs belong to the chemicals, chemical products and manmade fibres sector.

By contrast, approximately 16 % of survey respondents operate in the electrical and optical equipment sector but only 11 % of companies for whom at least one suspended product accounts for more than 90 % of total production costs belong to this sector. The sector accounts for 19 % of those for whom the suspended product accounts for less than a tenth of total production costs and 40 % of those for whom the suspended product accounts for 10-25 % of total production costs.

A similar pattern is observed for the proportion of intermediate costs accounted for by the suspended product.

*In summary, we have found that the tariff suspensions scheme has delivered significant cost savings to EU producers. Based on our survey responses we have found that the duty revenue foregone has, in the significant majority of cases, resulted in a direct cost reduction for EU producers; relatively few firms import products via an intermediary and hence the potential unintended consequence of duty savings being appropriated by intermediaries does not appear to have occurred to a significant extent.*

### **Extent to which tariff suspension has affected final product price**

Our analysis has found that the tariff suspensions scheme has led to a cost reduction for EU producers. Producers can choose to use this cost saving for many different purposes, including:

- pass saving on to consumer / user by reducing price of final product;
- retain as additional profit;
- devote to wages for current/additional workers; and
- invest in research and development.

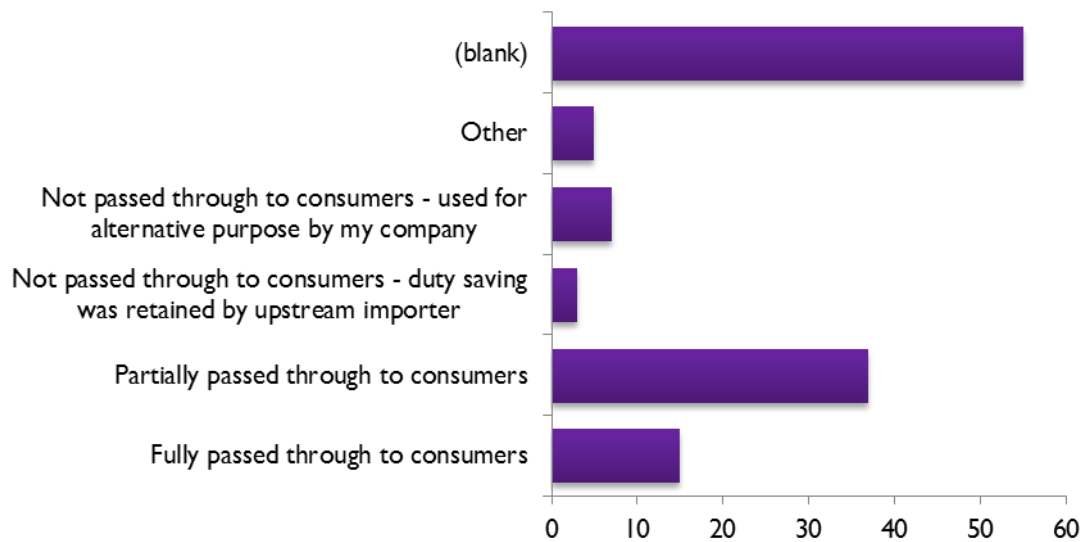
In this section, we explore the extent to which the tariff suspensions scheme has led to a reduction in the final product price; other potential impacts are explored in subsequent sections.

The key sources of evidence for assessing the impact of the tariff suspensions scheme on the final product price are responses to our survey and case study interviews with companies that have benefitted from the tariff suspensions scheme.

A significant number of survey respondents (55) chose not to answer the question on the extent to which import duty saving was passed on to customers through a lower price for the final product.<sup>27</sup> Of the 67 respondents that answered the question, the majority stated that the savings were partially passed through to consumers / users. This suggests that while the tariff suspensions scheme has helped EU producers to become more competitive on price, in the majority of cases the saved duty is used by the firm for multiple purposes. However, this finding should be considered in the light of the relatively low response rate — it is possible that those that did not respond to this question differ systematically from those that did respond. For example, if most firms that did not pass on duty savings to customers at all did not respond to this question, the truth could be that a significant proportion of firms retain duty savings.

**Figure 5.7: Effect on price of final product**

The extent to which import duty price savings were passed on to consumers / users through a lower final price



Many of those companies that we spoke to as part of case studies – which are reported in full in Annex 5 – informed us that the final product market for their product is highly competitive and so they had chosen to pass the majority of the duty saving through to consumers / users.

For example, a manufacturer of products for babies informed us that the diaper and baby products market is highly competitive and so the duty saved is passed through to consumers / users. This degree of competition is one of the driving forces behind the manufacturer’s strategy to apply for a tariff suspension if it becomes necessary to purchase a new material that is not available in the EU. Indeed, the manufacturer has a dedicated import/export department to check whether a suspension is already in force for any new material that need to be purchased and is not available from an EU manufacturer. If it is not already suspended, the department would then send in the application.

<sup>27</sup> Possible important reasons for the high proportion of incomplete responses to this questions (and the survey as a whole) may include: lack of knowledge of certain data on the part of the individual responding to the survey; concerns over commercial confidentiality; and the survey was relatively long and some respondents may have run out of time..

Similarly, a trade association informed us that the industry is being squeezed as retailers apply pressure to manufacturers as they want to offer the cheapest food and drink to consumers / users. The private label companies (e.g. large supermarkets) know the prices of the raw materials and the duty and so are able to limit the price paid to producers. This means both that fruit juice would be more expensive if the tariff suspensions scheme were not in place and that the saved duty is passed through to consumers / users.

A minority of those that we interviewed stated that the suspensions scheme would have no impact on the price of the final product. For example, an air-conditioning unit manufacturer stated that the scheme will enable it to keep the price of its air-conditioning units constant despite increases in the costs of other raw materials. As such, a portion of the cost saving will be passed through to consumers / users (since prices will be lower than in the absence of the scheme) but there would be no observable reduction in the retail price. A manufacturer of car parts stated that the main impact of the scheme would be on the costs of production instead of the retail price or its R&D activities. Interestingly, this view was expressed as an expectation rather than being based on experience, despite the fact that the suspension had been granted in 2010. The reason for this was that an administrative mistake meant that a manufacturer of car parts has paid CCT duty in the period since the suspension was granted and hence the company has not yet benefitted from the scheme (although it expects its over-payments to be refunded).

*In summary, we have found that the majority of companies pass through at least some of the duty saving to consumers / users in the form of lower prices. This suggests that the tariff suspensions scheme has had a positive impact on the price competitiveness of EU producers.*

### **Extent to which tariff suspension has affected final demand for product (via reduction in price)**

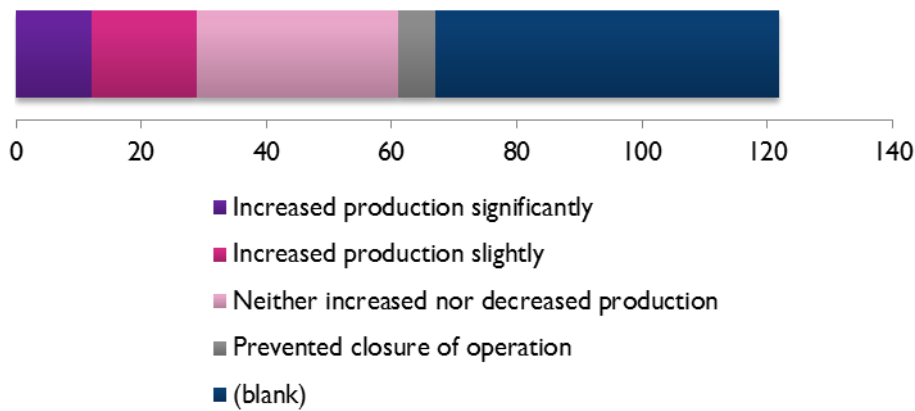
It would normally be expected that a reduction in the price of a product will, all else being equal, lead to an increase in the level of demand for that product. Given our above finding that the tariff suspensions scheme appears to have had an impact on the final product price (albeit to a lesser extent than the cost saved by EU producers), we would expect that the demand for final products that use suspended products as inputs should have risen and, hence, so should production volumes.

Many respondents to our survey chose not to answer the question on the impact of the tariff suspensions scheme on the production of final products that use the suspended products as inputs.<sup>28</sup> Of those that did respond, there were mixed feelings about whether the scheme had led to an increase in production. Approximately 43 % of those that responded to this question stated that production had increased either significantly or slightly as a result of the scheme whereas 48 % felt the scheme did not affect the level of production. A small number of respondents stated that the scheme prevented the closure of their operation.

#### **Figure 5.8: Effect on production of final products**

<sup>28</sup> As noted above, possible important reasons for the high proportion of incomplete responses to this questions (and the survey as a whole) may include: lack of knowledge of certain data on the part of the individual responding to the survey; concerns over commercial confidentiality; and the survey was relatively long and some respondents may have run out of time.

Effect of tariff-suspension scheme on final production of products that use suspended products as inputs



This diversity in responses is not entirely surprising given that few respondents fully pass through the cost saving to consumers / users. It would be expected that those that fully pass through the cost saving would experience an increase in demand whereas those that pass through only a proportion of the saving are less likely to experience this effect. Indeed, it is likely that the range of pass-through by those that partially passed through the cost saving to consumers / users is rather wide: the impact on demand from a 1% cost pass through would be expected to be less than the impact of passing through 99% of the cost saving.

In a case-study interview (which is reported in full in Annex 5) a manufacturer of high performance materials stated that the import duty saving was partially passed through to the company’s consumers / users and so helped to increase and its market share. However, the company stated that there has been a limited impact on volume of production due to strong competition within and outside EU, particularly as its competitors have also made use of the tariff suspension that was granted to the company. This statement may indicate that using the effect on production volume as a proxy for the impact on demand is likely to underestimate the total impact on demand: it would be possible for a company to meet additional demand without increasing production volumes if it has an inventory of products that it can draw on. Alternatively, the scheme may help EU businesses to secure additional market share in a climate of overall reduction in demand such that there would be no positive impact on production despite the increased competitiveness of EU enterprises.

In its case study interview, a manufacturer of products for babies stated that competition in the market is intense and so a small reduction in cost can make a big difference to the company. However, the company found it difficult to identify whether or not the lower price permitted by the suspensions scheme has had a significant impact on the volume of sales since price is just one of many aspects of competition. We consider that this point is likely to apply to a number of firms that responded to our survey and so the survey responses should be treated with some caution.

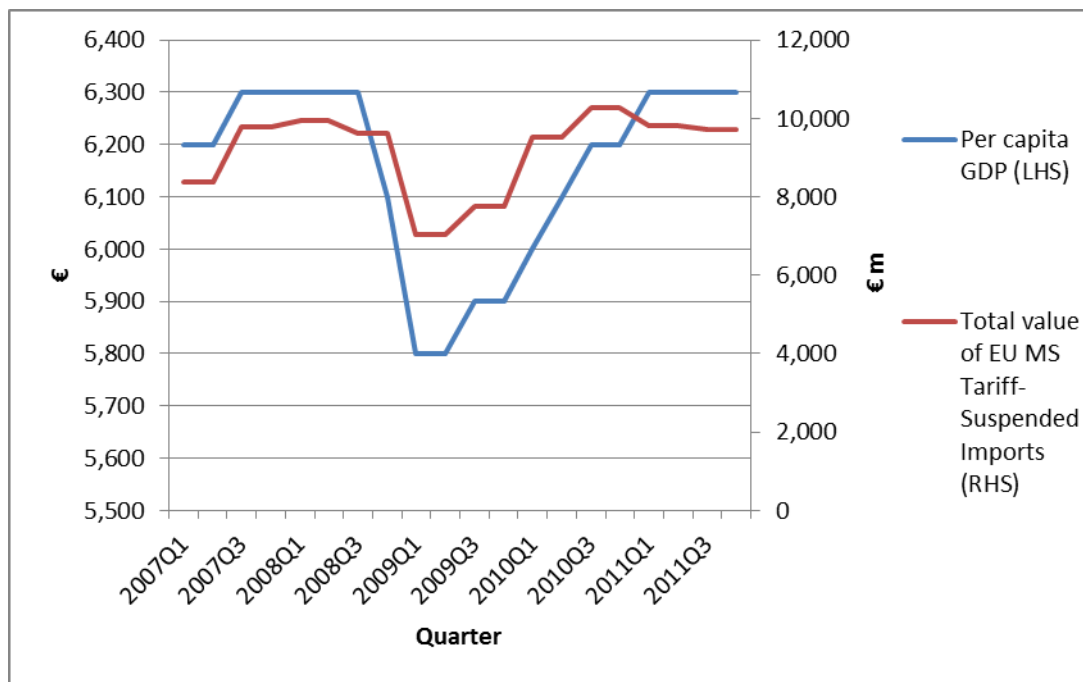
Another relevant factor in this context is the proportion of total production costs that are accounted for by the suspended input. As Figure 5.6 showed, there is quite some disparity amongst respondents on this issue. The impact on demand would be expected to be greater in those cases where the suspended product accounts for a relatively large proportion of the total production cost because the saved duty would

have a greater proportional impact on total costs (and hence prices if passed through to consumers / users).

This discussion suggests that there are a number of possible explanations for the pattern of demand impacts indicated by Figure 5.8. A further relevant factor is that the European economy entered recession during the period covered by this evaluation and had not fully recovered by the end of the period. The economic downturn reduced aggregate demand and it would be expected that demand for products that use suspended inputs would also have fallen. Therefore, it is quite possible that the reported impact of the scheme on production of final products would have been greater in better economic times.<sup>29</sup>

In the Figure below, we have plotted European GDP per capita and the total value of imports of suspended products to the EU between 2007 and 2011. The chart shows that there was a correlation between the two measures during the period covered by this evaluation. The trends in GDP and tariff suspended imports have tended to move in tandem and both reached a trough in the second quarter of 2009. This suggests that the demand for suspended products was affected by the economic downturn and the driving force for that trend is likely to be changes in demand for the final products that are produced using inputs imported under suspension.

**Figure 5.9: Trend in GDP and the value of imports under suspension**



Source: Europe Economics’ analysis of DG TAXUD and Eurostat data.

<sup>29</sup> In theory, survey respondents should have estimated the impact on production relative to the outcome in the absence of the tariff suspensions scheme but under the assumption that the economic slowdown would still have occurred. However, we consider that it is likely that some respondents would have simply compared production levels pre- and post-suspension. Given this consideration, the economic slowdown is a potentially relevant factor driving the reported impact on production.

The impact of the recession was mentioned by a number of those that were interviewed as part of our case studies (see Annex 5). For example, a manufacturer of timing belts informed us that the automotive field is very competitive and the decline in the size of the market during the economic downturn increased the difficulties faced by those that operate in the market. The decline in car purchases by consumers / users has had a negative impact on component producers and so the company sought to increase its competitiveness in order to maintain its market share. It did this, in part, by applying for the duty suspension. Similarly, a manufacturer of anchors and related products stated that the tariff suspensions scheme had given it a competitive advantage relative to its non-EU competitors but the impact on production volume had been relatively small and lower than it had expected. The economic downturn is likely to have contributed to this underachievement relative to the firm's expectations.

Another indicator of the impact of the tariff suspensions scheme on EU production and demand for final products produced within the EU is provided by a comparison of EU imports of a suspended product before and after a suspension was granted. We consider that the volume and value of suspended imports is likely to be positively correlated with the level of EU production of, and demand for, the final product.

Unfortunately, this type of analysis is not possible for the majority of suspended products because the ten-digit TARIC code is established only after a suspension has been granted. Therefore, in the majority of cases, we cannot observe imports of products prior to the suspension being granted.

A small proportion of suspensions are granted for the full eight-digit CN code. Data are available from Eurostat on all imports at the eight-digit level, irrespective of whether a suspension has been granted to all, a subset or none of the products that belong to that CN code. Therefore, for suspensions granted at 8-digit level, it is possible to compare imports before and after a suspension has been granted.

We observe only two suspensions that were granted at the eight-digit level between 2007 and 2011 for which pre- and post- suspension data are available (some suspensions were granted in 2011 but there is no post-suspension data for the period covered by this evaluation). Of these, a sub-division of one eight-digit product category was subject to a tariff suspension prior to the application of a suspension to the whole eight-digit product category.

Given the lack of data to support an analysis of imports of a suspended product before and after a suspension was granted, it is necessary to rely on the evidence presented previously to identify the impact of the tariff suspensions scheme on production and final demand. Nonetheless, we consider that the before/after approach could offer an avenue for exploring the impacts of the tariff suspensions scheme over a longer timeframe.

*In summary, we have found that there is no common impact of the tariff suspensions scheme on production. There is a roughly even split between those that report a positive impact on production and those that report no impact. Overall, we may conclude that the scheme has had a slight positive impact on the production of final goods in the EU but it is important to be cognisant of the fact the experience differs markedly between firms.*

**Extent to which tariff suspensions scheme has boosted (or maintained) employment**

As noted above, one way in which firms may have used the proceeds of the duty saving that they achieved through the tariff suspensions scheme is to increase or maintain employment.

A few companies reported that the tariff suspensions scheme had a significant positive impact on production levels. Unless labour was significantly under-utilised prior to the introduction of the tariff suspensions scheme it would be expected that there would be an associated increase in employment levels, at least in the short term (in the longer term, companies could change production technologies such that capital would replace labour).

As part of a case study reported in Annex 5, a manufacturer of filter fabrics and technical textiles informed us it had increased the number of people it employs due to the tariff suspensions scheme. It is relevant to note that the product under suspension (vinylidene-chloride methacrylate co-polymer) plays an important role in the production of the final product and accounts for large part of the total production cost. We would expect that the impact of the scheme on employment is likely to be greater where the product under suspension accounts for a large part of total production costs because the impact on price and demand would be greater in such cases.

For other firms, maintenance would probably be more relevant. During the period covered by this evaluation, an economic slowdown occurred within the EU and, in general, the level of demand fell. In the absence of a tariff suspensions scheme it may have been necessary for firms to cut the number of staff that they employ to a greater extent than they did given the existence of the scheme. In other words, the cost saved through the tariff suspensions scheme may have been used by some firms to maintain pre-recession employment levels despite a reduction in demand. This hypothesis was confirmed in a case study interview with a manufacturer of timing belts, which told us that the tariff suspensions scheme has contributed towards it being able to keep the number of people it employs constant despite a significant downturn in the demand for timing belts due to a reduction in the sales of new cars.

As shown in Figure 5.10, more than 50 % of those that responded to the employment impacts question in our survey stated that the tariff suspensions scheme had had no effect on employment. Overall – and despite the indication from the case study referred to above – our hypothesis that the tariff suspensions scheme may have enabled companies to maintain employment at pre-recession levels does not appear to be particularly relevant: only four respondents stated that the tariff suspensions scheme had prevented redundancies.

Two respondents felt that employment had decreased slightly but the rationale for this is not clear. It may be due to a general decline in trade over the period covered by the evaluation but it may instead reflect competition amongst EU competitors. If companies that compete in the same final product market have different production technologies it is possible that one EU producer may benefit to a greater extent (in terms of total production costs) than another producer. In this case, if the cost savings are passed through to consumers / users the company that benefitted least from the scheme may see a fall in demand for its products and hence redundancies may be required.

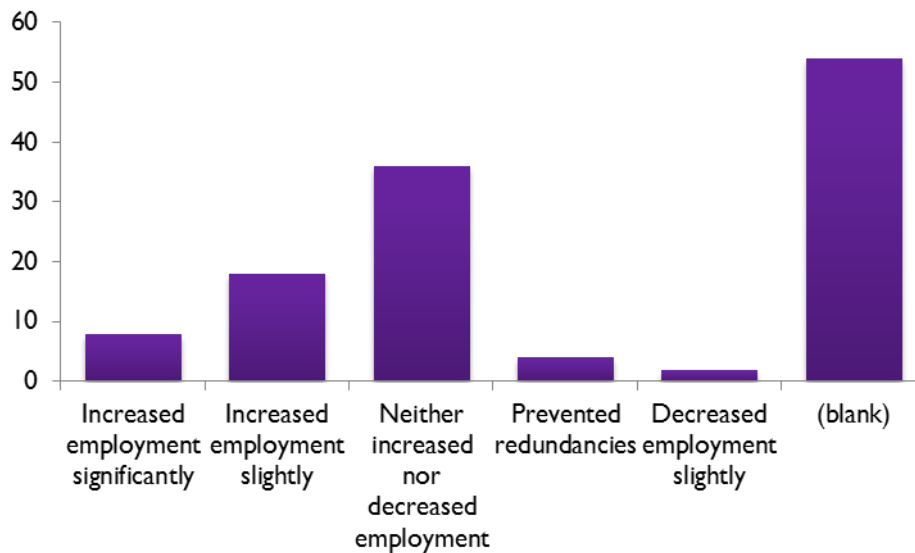


Approximately 38 % of respondents stated that employment had increased either slightly or significantly. This is a slightly lower percentage than those that felt that the scheme had increased production either slightly or significantly, which suggests that some firms had spare capacity and so were able to increase production without increasing employment.

The survey results (reported in full in Annex 1) also confirm our hypothesis that the impact on employment is likely to be greater where the suspended product accounts for a greater proportion of production costs. Of those companies for whom a tariff suspended input accounts for at least 90 % of the total production costs of a final product, 55 % stated that the tariff suspensions scheme had increased employment either slightly or significantly. By contrast, only 31 % of those companies for whom no suspended input exceeds 10 % of total production costs reported that the scheme had increased employment either slightly or significantly.

**Figure 5.10: Effect on employment**

Effect of tariff-suspension scheme on employment of full time staff



*In summary, we have found that the tariff suspensions scheme has had a slight positive impact on employment levels within the EU. While the majority of respondents to our survey stated that the scheme has had no impact on employment, a greater number of respondents identified a positive impact than a negative impact. Overall, therefore, the scheme appears to have led to a small increase in employment within firms that benefit from the tariff suspensions scheme.*

### **Extent to which tariff suspension has affected profitability**

The profitability of EU producers is affected by several factors, many of which may have been influenced by the tariff suspensions scheme. Our preceding discussion has noted that the tariff suspensions scheme:

- led to lower costs for the majority of those that made use of the scheme between 2007 and 2011;
- led to a reduction in price for the majority of final products although the proportion of cost passed through varied between products;

- led to an increase in production for a minority of products; and
- led to an increase in employment for a minority of companies.

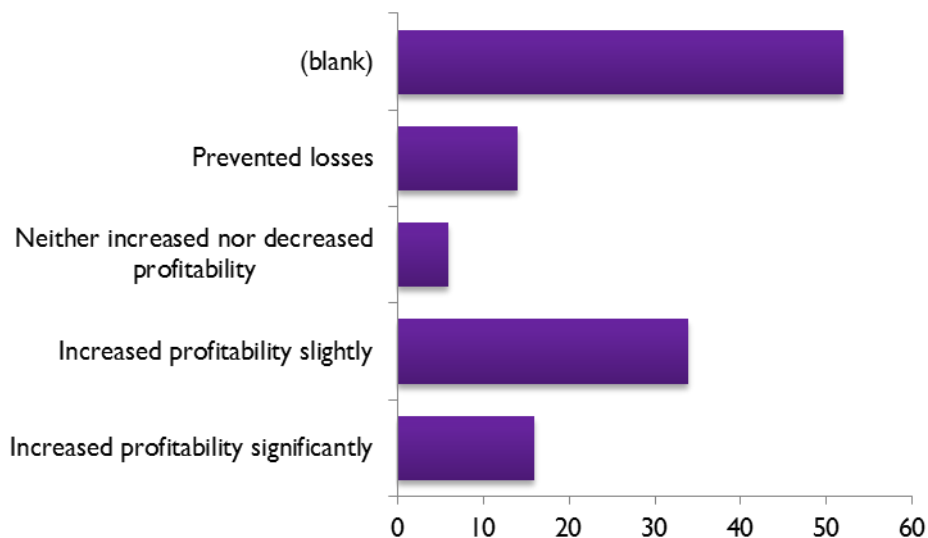
The first and third of these factors exert a positive influence on profitability, all else being equal, while the second and fourth would act to reduce profitability. Our preceding analysis does not, therefore, provide a clear indication of the impact of the tariff suspensions scheme on profitability.

To obtain evidence on this issue, we asked survey respondents to specify the effect that import duty savings from the tariff suspension scheme had had on the company's profitability. Of the 70 companies that responded to this question, 50 felt that profits had increased either slightly or significantly due to the scheme while a further 14 felt that the scheme had prevented losses (see Figure 5.11).<sup>30</sup>

While a majority of firms that responded to this question reported a positive impact on profitability, only a minority reported that the scheme had led to greater production and sales. Enhanced production can, therefore, only provide a small part of the explanation for increased profitability. Based on the responses to our survey, the primary explanation for increased profitability is the direct impact of lower costs that are not fully passed through to the consumer / user.

**Figure 5.11: Effect on profitability**

Effect of import duty savings on profitability of companies



To gain further insight into the importance of the tariff suspensions scheme to the profitability of beneficiary firms we asked survey respondents to specify the proportion of turnover that was generated from the sales of final products that use duty-suspended inputs between 2007 and 2011.

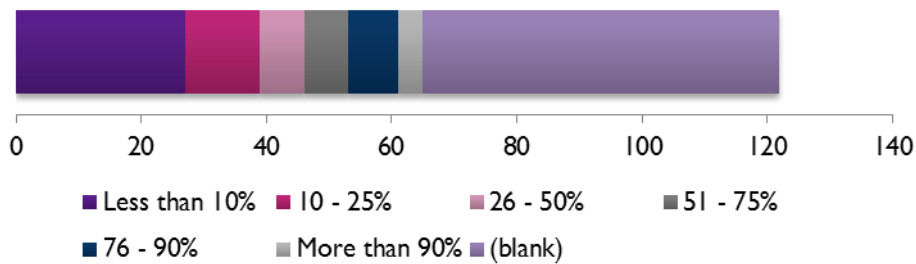
Figure 5.12 shows that of the 65 respondents that answered this question, 60 % stated that such final products accounted for less than 25 % of turnover. This

<sup>30</sup>Possible important reasons for the high proportion of incomplete responses to this questions (and the survey as a whole) may include: lack of knowledge of certain data on the part of the individual responding to the survey; concerns over commercial confidentiality; and the survey was relatively long and some respondents may have run out of time.

observation provides a possible explanation for the fact that the suspensions scheme has had only a slight impact on profitability for the majority of survey respondents – profits from final products that use suspended inputs are likely to be dwarfed by profits from other products (assuming that the cost-price mark-up is broadly consistent, in percentage terms, across products).

**Figure 5.12: Turnover related to suspensions**

Responses by stated percentage of turnover generated from sales of products using duty-suspended inputs



*In summary, we have found that the tariff suspensions scheme has had a slight positive impact on profitability. The key driver of this impact appears to be the fact that the companies do not generally pass through the full cost saving to consumers / users and instead retain a portion of the saving as profit.*

### **Extent to which scheme has affected choices of where to manufacture products**

The autonomous tariff suspensions scheme has the potential to affect decisions of where to manufacture both intermediate and final products.

With respect to intermediate products, it is possible that the existence of the tariff suspensions scheme encourages companies to produce products outside the EU that would, in the absence of the scheme, be produced within the Union’s borders.<sup>31</sup> The rationale for this hypothesis is that labour costs are lower in many countries outside the EU and hence total production costs can be lower. However, transport costs and import duties add to the cost of manufacturing intermediate products outside the EU an importing them to the EU for use in manufacturing industries.

Where the removal of import duty on a product leads to non-EU production becoming cheaper than EU production, vertically integrated companies (i.e. those that operate at different levels of the supply chain) may choose to produce intermediate products outside the EU which would have been produced within the EU in the absence of the tariff suspensions scheme. While we did not find any evidence of such effects during the course of this evaluation, we consider that the possibility that the scheme has affected production decisions in this manner cannot be ruled out.

As reported in Annex 5, some of those that participated in our case study interviews considered that it would be technically possible to manufacture the intermediate good in the EU, but that the tariff suspensions scheme had not affected the decision of

<sup>31</sup> As discussed in Section 5.3, a similar effect may apply to production in countries which have special trading arrangements with the EU.

where to produce the intermediate good. For example, a manufacturer of high performance materials stated that it would be technically possible for its sister company to produce ARF/KRF within Europe but, in this case, it would still be necessary to import raw materials from countries outside Europe. These materials could be subject to a tariff suspension but the cost of transforming the raw materials into the form required by the company would be more expensive in Europe. Therefore, the costs of the company are minimised through the importation of an intermediate good. Similarly, a manufacturer of products for babies stated that it is typically necessary to import from outside the EU because EU manufacturers are either unable to produce the volume required or are unable to manufacture the inputs that are required for cutting-edge diapers.

Other interviewees expressed disappointment that the intermediate product is not available from an EU producer but did not suggest that the scheme had affected EU production. For example, a manufacturer of bearings stated that while the scheme is beneficial, it would prefer to purchase silicon nitride rollers and balls from a supplier based within the EU because of the easier transport and communication that this would create. It would also mean that it would have security of supply which would act as a safeguard against natural disasters such as the Japanese earthquake of 2011. As such, it considers that the tariff suspensions scheme is a second-best solution given that there is no EU supplier at present. However, the company stated that suppliers in Japan and the USA benefit from economies of scale, which acts as a barrier to an EU firm entering this market. EU producers have tended to focus on low volume specific ceramics that are not suitable inputs for the products manufactured by the company.

The expected effect for final products is the opposite of that for intermediate products – the existence of the tariff suspensions scheme should encourage production of final goods within the EU at the expense of non-EU production. More specifically, we would expect that the scheme would prevent production leaving the EU rather than encouraging companies to move to the EU from a non-EU country.

We asked respondents to our survey whether the tariff suspensions scheme affected their decision to produce final goods within the EU.<sup>32</sup> Of those that responded to this question, almost one-third attributed their entire production of certain products within the EU to the scheme, while 30% attributed some production of certain products within the EU to the scheme.

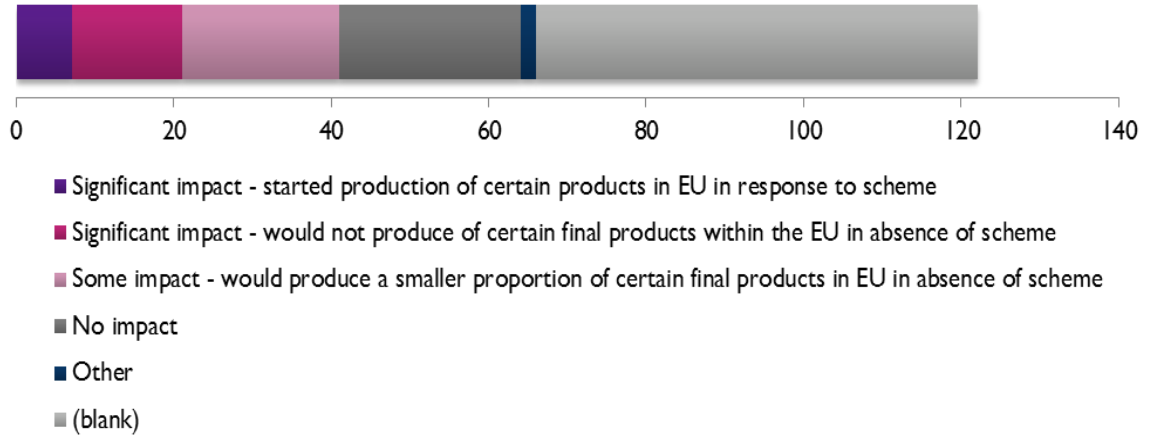
The responses to our survey suggest that the tariff suspension scheme can have a significant impact on the choice of manufacturing location. In line with our hypothesis, the impact tends to arise in the context of preventing production from leaving the EU – only a small number of respondents stated that they had started producing certain products within the EU in response to the scheme. As noted by one of our case study participants, even such impacts may arise through innovation by firms already based within the EU rather than firms relocating to the EU.

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<sup>32</sup> The full results of the survey are presented in Annex 1.

**Figure 5.13: Effect on decision to produce with the EU**

The effect of tariff suspension on decision of whether to produce final goods within the EU



A number of those that were interviewed as part of our case studies stated that the tariff suspensions scheme had helped the company to continue producing the final product within the EU. This issue is particularly relevant for companies that have premises outside the EU.

For example, an air-conditioning unit manufacturer stated that its main competitors are other multinational companies, some of whom take advantage of the lower production costs outside the EU. To compete against these companies while producing within the EU, it considers that the suspensions scheme is essential and is a key reason that it is able to continue to manufacture within the EU.

Another interviewee, a manufacturer of bearings, stated that it has production facilities outside of the EU but these do not currently manufacture products that use the suspended product as an input. In light of the relatively high costs of producing in Europe, the scheme has given it a competitive advantage relative to its non-EU competitors which appears to have tipped the balance towards it continuing to manufacture in the EU rather than shifting production overseas.

While these interviewees stated that the scheme has affected their choice of where to produce, we consider that it is important to bear in mind the fact that it is likely to be far easier for a multinational company to switch towards non-EU production than it is for firms that are based only in Europe. Indeed, those firms that do not have any offices / premises outside the EU were more likely to state that the tariff suspensions scheme has had no impact on the choice of manufacturing location.

On this basis, we consider that the key impact of the tariff suspensions scheme with respect to choice of manufacturing location is on retaining EU production of goods produced by companies that have non-EU premises.

*In summary, we have found that the tariff suspensions scheme has had some impact on the decision of whether to produce final products in the EU. We suspect that the scheme may have also affected choices of where to manufacture intermediate products but it is not possible to provide firm evidence on this point.*

### **Extent to which scheme has affected choice of production method**

A final relevant factor when estimating the impact of the tariff suspensions scheme on the competitiveness of EU manufacturers is the extent to which the scheme has affected the choice of production method.

In theory, it is possible that the tariff suspensions scheme would encourage producers to select a production method that enables them to employ the suspended product as an input and so benefit from the saved duty.

In some cases, such a decision will be economically efficient in the sense that the production method that uses the suspended input is the most cost-effective way in which to produce a certain product. In these cases, the suspensions scheme would act as an additional incentive to switch production methods and this action has the potential to benefit society. However, in other cases a company may switch to a slightly more costly production method but would, overall, be better off thanks to the duty saved.

In other cases, however, the tariff suspensions scheme may encourage a manufacturer to retain a pre-existing production method where he would have switched in the absence of the scheme. In these cases, it is likely that the scheme led to an economically inefficient decision – profit-maximising companies would only choose to switch production method if it is likely to deliver greater profit and so the scheme has encouraged a relatively inefficient production method to be retained.

In still other cases, both possible production processes may make use different suspended products. The impact of the tariff suspensions scheme on the efficiency of production decisions is less clear in these cases.

As shown in Figure 5.14, the majority of those that responded to this question our survey stated that the tariff suspensions scheme had not affected the choice of production method. The same finding emerged from our case studies: no interviewee stated that it would have chosen an alternative production process in the absence of the scheme.<sup>33</sup>

For example, a manufacturer of high performance materials informed us that its choice of production method for the suspended products has not been affected by the use of tariff suspension. This is because the product for which it applied for a tariff suspension (ARF/KRF) is an essential input because an adequate substitute does not exist. The main reason for this statement is that the products manufactured by the company are tailored to the needs of its customers. Any change in the product manufactured by the company would have an impact on its customers, who would then need to change their own production process. Therefore, it is too costly to change ARF/KRF as an input for the manufacturer of high performance materials and its clients.

Similarly, an air-conditioning unit manufacturer's production process requires a very specific type of laminated aluminium foil. The key element of the foil is its coatings, specific thickness and technical qualities – the manufacturing system would break down if a type of foil with different coatings were used. Changing its systems to use a

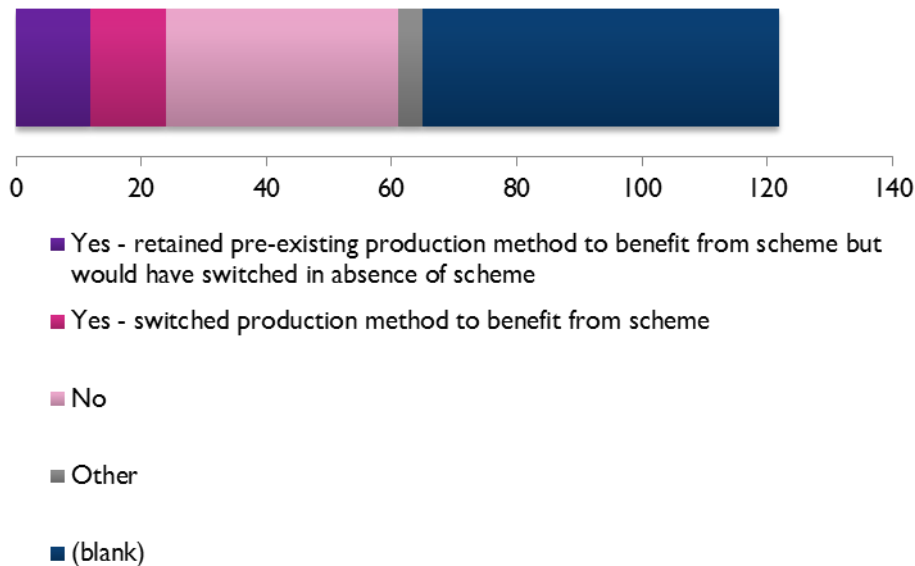
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<sup>33</sup> As above, possible important reasons for the high proportion of incomplete responses to this questions (and the survey as a whole) may include: lack of knowledge of certain data on the part of the individual responding to the survey; concerns over commercial confidentiality; and the survey was relatively long and some respondents may have run out of time.

different type of foil would require many months of testing and would be a very costly exercise. Therefore, the manufacturer is entirely reliant on the suspended product in its production of air conditioning units.

**Figure 5.14: Effect on choice of production method**

The effect of tariff suspension on choice of production method for final product



Overall, Figure 5.14 shows that of those cases in which the production method had been affected by the scheme, half stated that they had retained a pre-existing production method and half stated that they had switched production method in order to benefit from the scheme.

In light of the discussion above, these results suggest that the suspensions scheme has not affected production choices in the majority of cases and, in some cases it may have encouraged firms to select a more efficient production process. However, the scheme has, in a minority of cases, led beneficiary firms to retain an inefficient production method.

*In summary, we have found that the tariff suspensions scheme has affected the choice of production method for a significant minority of companies that responded to our survey. In some cases, the scheme appears to have led to an inefficient technique to be selected whereas in other cases it may have encouraged a more efficient technique to be adopted.*

### Conclusion

Overall, we have found that the tariff suspensions scheme has had a slight positive impact on the competitiveness of EU enterprises. The scheme delivered a total CCT duty saving to EU businesses of €4.7 billion between 2007 and 2011, which equates to approximately €3 million per TARIC code linked to suspensions. Based on our case studies, the benefit of the tariff suspensions accrues almost entirely to the applicant in some cases but accrues to a broader pool of firms in other cases. Data on the value

of trade under suspension suggests that 20-25 % of benefits during the evaluation period accrued to companies in Germany, while no other Member State received more than 15 % of the total benefit.

The scheme has delivered a range of benefits to EU producers. We have found that the majority of companies pass through at least some of the duty saving to consumers / users in the form of lower prices. This led to an increase in demand for the products of some firms, but in recent years the economic downturn may have restricted the degree to which the scheme boosted demand. Where demand did increase that led, in a minority of cases, to a positive impact on employment but it appears plausible that many EU firms currently have spare capacity and so can increase production without a corresponding increase in employment.

Overall, the tariff suspensions scheme has had a slight positive impact on the profitability of those firms that benefit from the scheme. The key driver of this impact appears to be the fact that the companies do not generally pass through the full cost saving to consumers / users and instead retain a portion of the saving as profit.

The scheme has also affected production decisions for some firms. It appears to have encouraged EU production of final products but may have in other cases discouraged multinational companies to manufacture intermediate goods within the EU.

Notwithstanding the positive impacts of the scheme described above, it is important to consider the extent to which the scheme has macroeconomic significance. During the period covered by this evaluation, the proportion of all goods imported to Slovakia that were subject to a tariff suspension exceeded 10 % in all years other than 2011. The corresponding figures for the Czech Republic and Hungary were approximately 6 % and 8 % respectively. Suspended products accounted for a smaller proportion of imports in the remaining Member States, which results in an average for the EU-27 of 3.5 %. This suggests that the scheme can have non-negligible macro-economic impacts, especially in certain Central European countries.

## 5.2. Impact on conditions of economic growth for SMEs

Evaluation question:

To what extent has the tariff suspension scheme helped to create conditions of economic growth for the SMEs?

It is quite possible that the experience of SMEs with the tariff suspensions scheme would differ from that of larger companies. In this section, we explore the extent to which the tariff suspensions scheme helped to create conditions of economic growth for SMEs. Our analysis explores both the extent to which the scheme has helped to increase the competitiveness of EU SMEs relative to non-EU competitors and the extent to which the scheme has disproportionately benefitted EU SMEs relative to larger firms in the EU. A positive finding on both of these issues would suggest that the scheme has helped to create the conditions for SME growth.

For the purpose of this study, we have defined an SME as a firm which has a turnover of less than €50m and 250 or fewer employees.



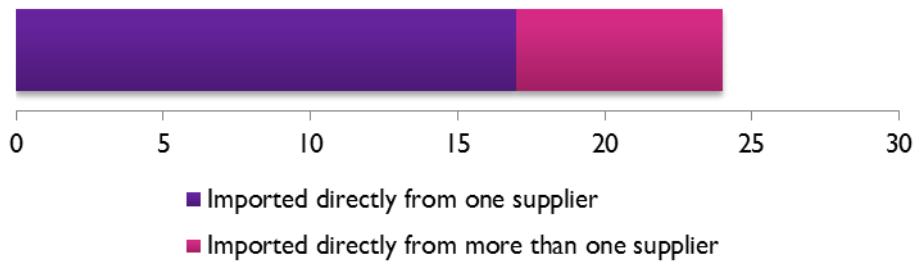
**Extent to which tariff suspensions scheme has reduced costs of those firms that use a suspended product as an input**

As noted in Section 5.1, a direct impact of the tariff suspensions scheme should be a reduction in the costs of EU producers, subject to any capture of duty savings by third-country importers.

Figure 5.15 shows that all 24 products that were imported by SMEs that responded to our survey were imported directly. This shows that, at least for those SMEs that responded to the survey, any saved duty had a direct impact on the costs of the firm. The hypothesis that saved duties may be captured by an intermediary does not apply for those SMEs that responded to our survey.

**Figure 5.15: Access to suspended items**

Mode of access to suspended items imported from outside the EU

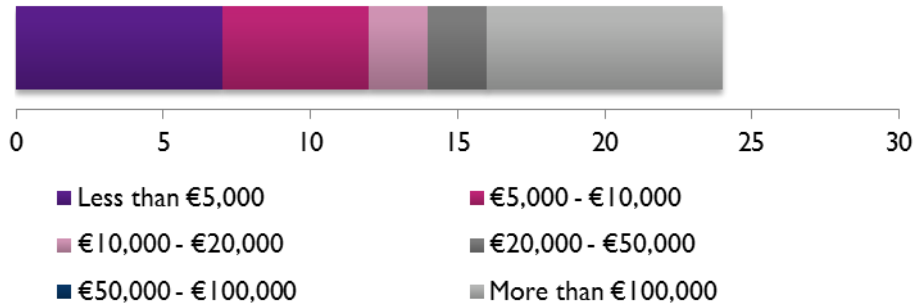


The analysis presented in Section 5.1 showed that the majority of respondents to our survey had saved more than €100,000 in duty between 2007 and 2011. Somewhat unsurprisingly, Figure 5.16 shows that the average duty saved by an SME is lower than the average saving across all firms. Indeed, the SMEs that responded to our survey listed 24 products that benefited from the suspension scheme, of which eight products were associated with duty avoidances in excess of €100,000 and seven brought duty savings of less than €5,000.

This analysis shows that SMEs account for the majority of cases where the total duty saved was less than €20,000 between 2007 and 2011 and so the scheme has had a positive impact on those SMEs that participated in it, albeit to a lesser degree than for larger firms.

**Figure 5.16: Duty saved per product**

Distribution of duty saved between 2007 and 2011 on each product

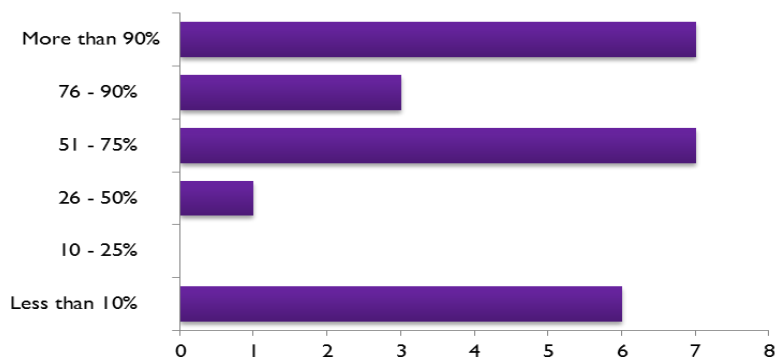


The importance of the suspended input to the cost of producing a final product has an important bearing on the economic impacts of the tariff suspensions scheme in terms of increased competitiveness, increased sales, higher employment and so on. We consider this issue by looking at both intermediate costs and total production costs.

Of the 24 products that SMEs reported being imported under suspension, a quarter accounted for less than 10 % of intermediate costs. However, 17 accounted for over 50 % of intermediate costs, including seven which accounted for over 90 % of the said costs. In comparison to the distribution for the full sample, it is evident that suspended inputs in general account for a higher percentage of intermediate costs for SMEs.

**Figure 5.17: Suspended product as a percentage of intermediate costs**

Distribution of percentage of intermediate cost accounted for by duty-suspended inputs

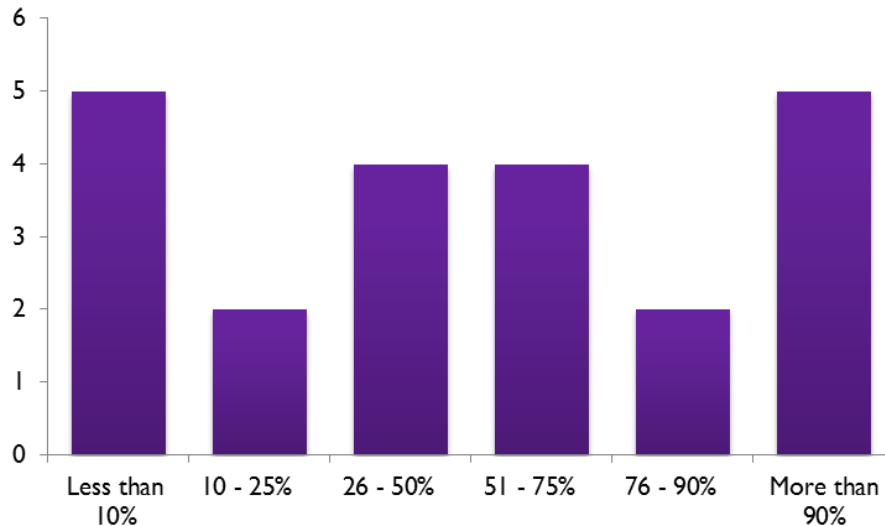


Similarly, Figure 5.18 shows that suspended inputs tended to account for a large proportion of total production cost for SMEs than for the full sample of respondents. Of the 22 products for which information was provided, 11 accounted for over 50 % of total production costs, including five which accounted for over 90 %.

Taken together, Figure 5.17 and Figure 5.18 show that the duty saved through the tariff suspensions scheme has had a more significant impact on the costs of the SMEs that responded to our survey than of other firms. This suggests that in addition to helping SMEs to become more competitive relative to non-EU producers of similar final products, the tariff suspensions scheme may have improved their competitiveness relative to other EU producers of similar products. Firm evidence for this latter hypothesis is not, however, available in survey responses.

**Figure 5.18: Suspended product as a percentage of total production costs**

Distribution of percentage of total production cost accounted for by duty-suspended inputs



One of our case study products was anchor head of hot dipped galvanized ductile cast iron.<sup>34</sup> A manufacturer of anchors and related products stated that it estimated that the duty saved between 2007 and 2011 because of the scheme to be less than €10,000 and the cost of the suspended product accounted for between 51-75 % of the total production costs of the final product. This suggests that the tariff suspensions scheme has helped it to become more competitive relative to competitors based outside the EU. In this case, we can unambiguously conclude that the tariff suspensions scheme helped to create the conditions for growth for the company because it does not face any competition in the final product market from firms that are based in the EU.

*In summary, we have found that the tariff suspensions scheme has led to a reduction in the costs faced by EU SMEs. Relative to the full set of survey respondents, the proportion of intermediate and total production costs accounted for by the suspended products is greater for SMEs. This may suggest that the economic impacts on SMEs might be greater; the evidence for this hypothesis will be considered in the following paragraphs.*

### **Extent to which tariff suspension has affected final product price**

The analysis above has shown that the tariff suspensions scheme has led to a reduction in costs for EU SMEs and thus has helped to create conditions that will help SMEs to grow.

Whether SME growth is achieved, however, depends in part on how the companies use the saved duty within their business. If SMEs simply take the saved duty as additional profit, the tariff suspensions scheme would have no impact on SME growth, as defined by level of output, employment etc. By contrast, if SMEs either pass through the duty saving to users / consumers or use it to fund, say, research and development (R&D)

<sup>34</sup> A full report of this case study is in Annex 5.

activities, the tariff suspensions scheme may have a positive impact on growth. In the former case, this positive growth impact would arise because a reduction in the price of the SMEs product would lead to an increase in the quantity demanded by consumers / users, and so to an increase in revenue for the SME. In the latter case, R&D can lead to an innovation that is attractive to consumers / users and so the SME can increase its revenue by attracting consumers / users to purchase a new product.

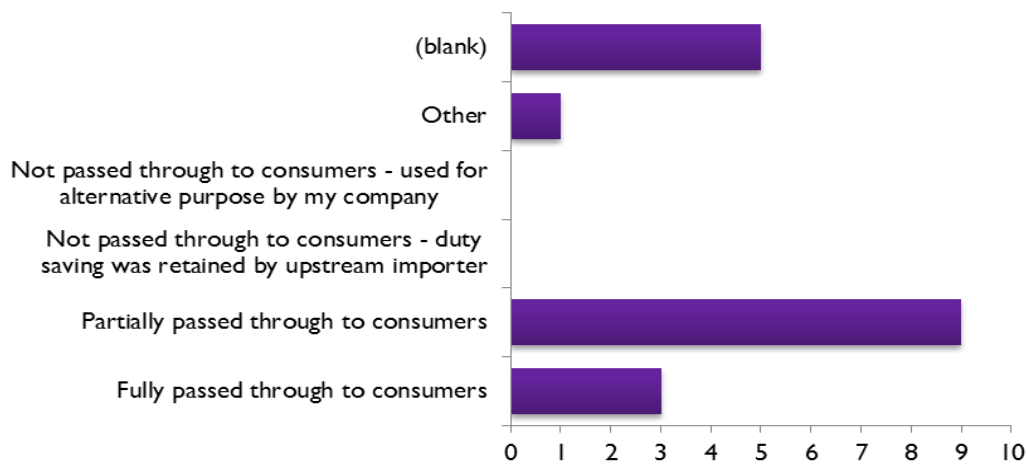
A manufacturer of anchors and related products stated that it applied for a tariff suspension because it wished to develop a new product line that would use the anchor head of hot dipped galvanized ductile cast iron as an input material. The duty saved through the tariff suspension scheme provided an extra incentive for trailing the new product and so, in this case, the duty saved through the scheme was used, in part, for R&D purposes. However, it is not clear that the tariff suspension was the key influence on the development of the new product range (i.e. the product may have been trialled even in the absence of the scheme).

With respect to the impact of the suspensions scheme on the final product price, Figure 5.19 shows that more than 90 % of SMEs that responded to this question stated that import duty savings had been partially or fully passed through to consumers / users. No SME stated that the duty saving was fully retained by the company while the distribution of SMEs between those that fully passed through the duty saving to consumers / users and those that partially passed it through is similar to the distribution of all respondents.

A manufacturer of anchors and related products chose to partially pass through the duty saving to its customers as it hoped that the reduction in price would lead to increased demand for its products. However, it chose not to fully pass through the duty saving because it wished to use some money for R&D purposes.

**Figure 5.19: Effect on price of final product**

The extent to which import duty price savings were passed on to consumers / users through a lower final price



*In summary, we have found that the tariff suspensions scheme has had an impact on the final product price charged by the vast majority of SMEs that responded our survey. Therefore, the suspensions scheme has boosted the price competitiveness of SMEs relative to non-EU producers. It is not clear whether EU SMEs have become more price-competitive relative to other firms based within the EU.*

**Extent to which tariff suspension has affected final demand for product (via reduction in price)**

The law of demand states that, all else being equal, a reduction in the price of a good leads to an increase in the quantity demanded. The preceding analysis has shown that the vast majority of SMEs passed at least some portion of the duty saving through to consumers / users. It has also shown that the suspended product accounts for a substantial portion of total production costs for many SMEs. Therefore, the impact of the suspensions scheme of the final retail price is likely to be non-trivial for numerous products produced by EU SMEs. The duty saving confers a benefit only to those that manufacture products within the EU and so those products should become more competitive relative to those produced outside the EU. We would expect, therefore, that demand for products produced by EU SMEs should have risen.

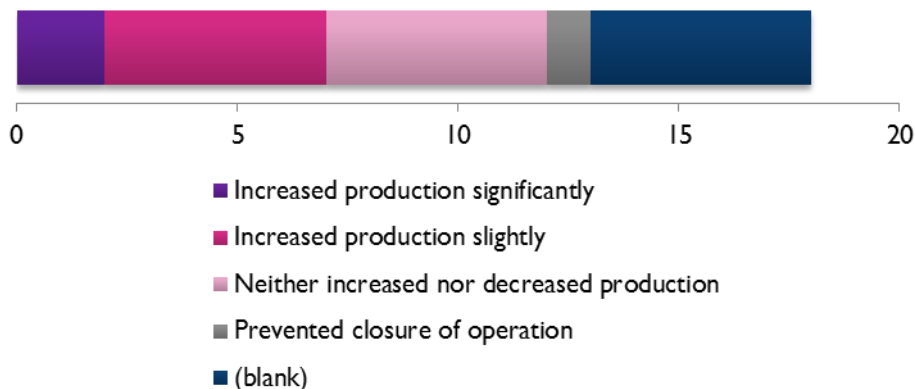
This hypothesis is borne out in practice, at least for those SMEs that responded to our survey.<sup>35</sup> Of those that responded to the question on production impacts, more than half stated that production had increased either significantly or slightly. In a case study interview, a manufacturer of anchors and related products stated that it believes that the tariff suspensions scheme had a slight positive impact on production volumes but noted that it is difficult to separate the direct impacts of the scheme from other influences, such as general trends in the demand for its products and strategic decisions taken by its competitors.

We consider that it is reasonable to assume that, in general, production would only increase in response to a higher level of demand and so the tariff suspensions scheme appears to have increased the demand for products produced by EU SMEs and to have facilitated the growth of these companies.

Relative to all respondents, the percentage of those that felt that the tariff suspensions scheme had had a positive impact on production was 10 percentage points greater for SMEs. A similar proportion of SMEs and all respondents felt that the tariff suspensions scheme had prevented closure while a smaller percentage considered that the scheme had had no impact on production.

**Figure 5.20: Effect on production of final products**

Effect of tariff-suspension scheme on final production of products that use suspended products as inputs



<sup>35</sup> The full results of the survey are in Annex 1.

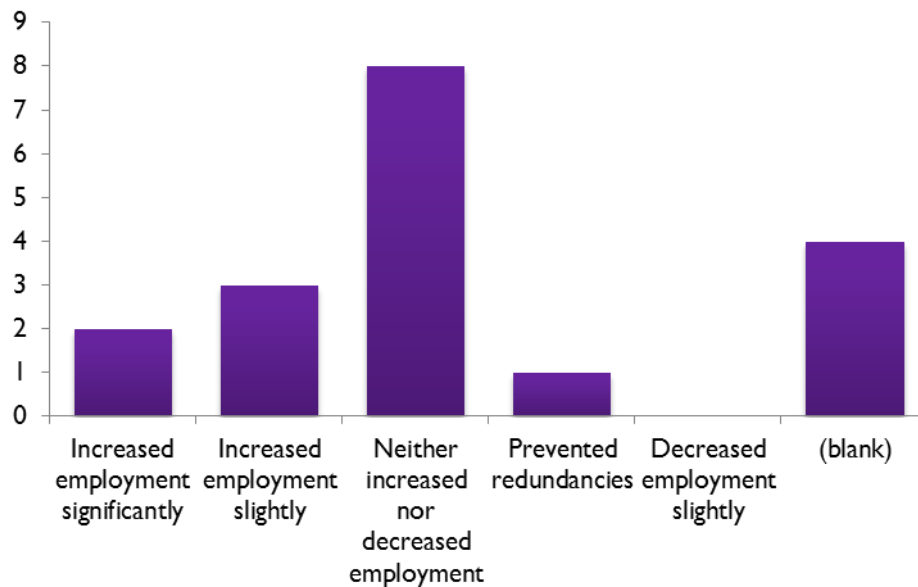
*In summary, the tariff suspensions scheme appears to have led to an increase in demand for products produced by EU SMEs to a greater extent than for products produced by larger companies. A key explanation for this is likely to be that suspended products generally account for a greater proportion of total production costs for SMEs and hence the impact of passing through duty savings on the final product price will be greater. In turn, this would lead to a greater increase in demand.*

**Extent to which tariff suspensions scheme has boosted (or maintained) employment**

The impact of the tariff suspensions scheme on employment within SMEs has been reasonably similar to the impact on larger firms, based on responses to our survey. Of those SMEs that responded to our survey, slightly more than half stated that the tariff suspensions scheme had had no impact on employment; a similar proportion of all respondents stated the same. Approximately one-third of SMEs and all respondents stated that employment had increased employment, either significantly or slightly, as a result of the tariff suspensions scheme. A manufacturer of anchors and related products, the applicant for one of our case study products, stated that the tariff suspensions scheme had increased the number of people it employs slightly.

**Figure 5.21: Effect on employment**

Effect of tariff-suspension scheme on employment of full time staff



To some extent, it is surprising that the scheme had a greater impact on production levels for SMEs but no greater impact on employment. This is because, in general, it is not possible to respond to a short-term increase in demand by changing capital inputs and firms would generally choose to increase employment in response to an increase in demand. A greater increase in demand would, therefore, be expected to be associated with a greater increase in employment.

However, it is important to consider the state of the European economy during the period covered by this evaluation. At the start of the period, the economy was performing strongly but a slowdown occurred during later years. In this context, it is

likely that many EU producers, including SMEs, were operating with some spare capacity. Therefore, it would be possible for some firms to respond to higher levels of demand without increasing employment.

*In summary, the tariff suspensions scheme has had a relatively limited positive impact on employment within SMEs. We consider that spare capacity is likely to be the key reason for this as it allows SMEs to expand production without increasing employment.*

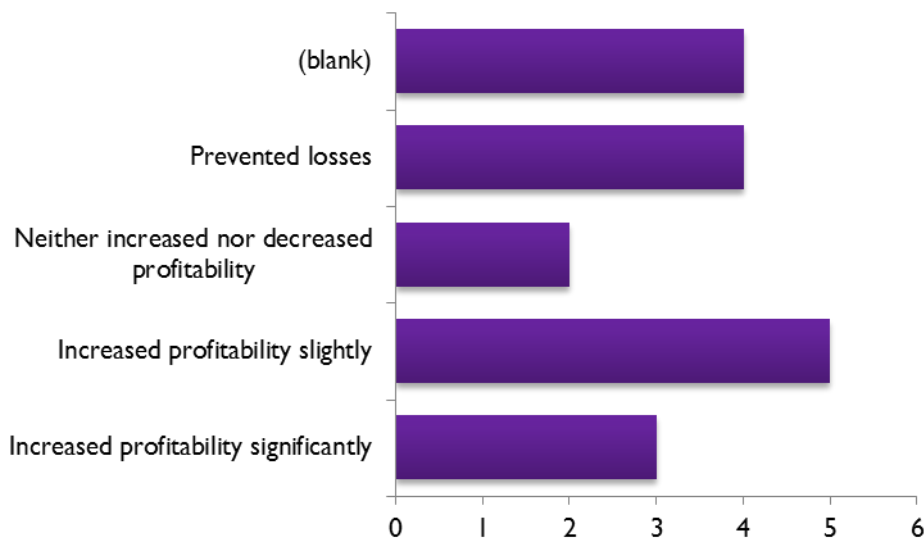
**Extent to which the suspensions scheme has increased profitability**

The preceding analysis has shown that the tariff suspensions scheme has reduced the costs of EU SMEs, led to a lower final product price, increased production/demand and had a limited impact on employment. Taken together, these observations suggest that the tariff suspensions scheme should have had a slight positive impact on the profitability of EU SMEs.

Figure 5.22 shows that of those SMEs that responded to our survey, more than half stated that their profitability had increased either slightly or significantly due to the tariff suspensions scheme. This is a less positive result than for the full group of survey respondents, the vast majority of which stated that the scheme had had a positive impact on profitability. However, a greater proportion of SMEs consider that the scheme has prevented losses than is the case for all respondents.

**Figure 5.22: Effect on profitability**

Effect of import duty savings on profitability of companies



As noted above and described fully in Annex 5, a manufacturer of anchors and related products stated that its successful application for a tariff suspension for the anchor head of hot dipped galvanized ductile cast iron had led to a slight increase in both production and employment. However, the company stated that the scheme had led to a significant increase in its profitability.

Given that the company stated that it did not retain any of the duty saving for profit, these observations present a bit of a puzzle – why did profitability increase to a

greater extent than production if the unit profit margin was not directly affected? It is not possible to provide a robust explanation, given the data that are available but one potential explanation is the possibility that it had numerous units in storage such that sales (and profits) could increase without a corresponding increase in employment. The fact that the company did expand production and employment suggests that the total growth in demand for its products exceeded the number of units that were in its inventory prior to the tariff suspensions scheme.

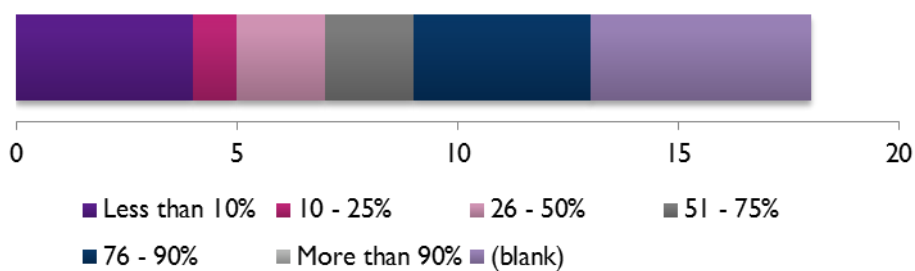
To gain further insight into the importance of the tariff suspensions scheme to the profitability of beneficiary SMEs we asked survey respondents to specify the proportion of turnover that was generated from the sales of final products that use duty-suspended inputs between 2007 and 2011.

A manufacturer of anchors and related products stated that between 76 % and 90 % of its turnover derives from products that make use of a product that is imported under the tariff suspensions scheme. Taken in conjunction with the fact that the product imported under suspension accounts for more than half of total production costs, it is clear that the tariff suspensions scheme has a significant influence on its profitability.

Considering the views of all SMEs that responded to our survey, the average proportion of turnover that is related to suspensions is greater for SMEs than for respondents as a whole. While, as shown in Figure 5.23, 60% of all respondents stated that suspensions were related to less than 25% of turnover, only 38% of SMEs reported the same. This indicates that the importance of the tariff suspensions scheme to turnover is greater for SMEs than for larger firms.

**Figure 5.23: Turnover related to suspensions**

Responses by stated percentage of turnover generated from sales of products using duty-suspended inputs



Given this, and the fact that the impact of the scheme on demand was greater for SMEs, it may seem somewhat surprising that the impact on the profitability of SMEs is similar to that of larger firms. The probable explanation is that the greater increase in demand for the products of SMEs is entirely offset by a greater reduction in price for SME products. The latter effect would arise because the suspended product accounts for a greater proportion of total production costs and assumes that there is no difference between SMEs and larger firms in terms of the proportion of the duty saving that is passed through to consumers / users.



*In summary, we have found that the tariff suspensions scheme has affected the profitability of SMEs. While a smaller percentage of SMEs than larger companies state that the scheme has increased profitability, a greater percentage state that it prevented losses.*

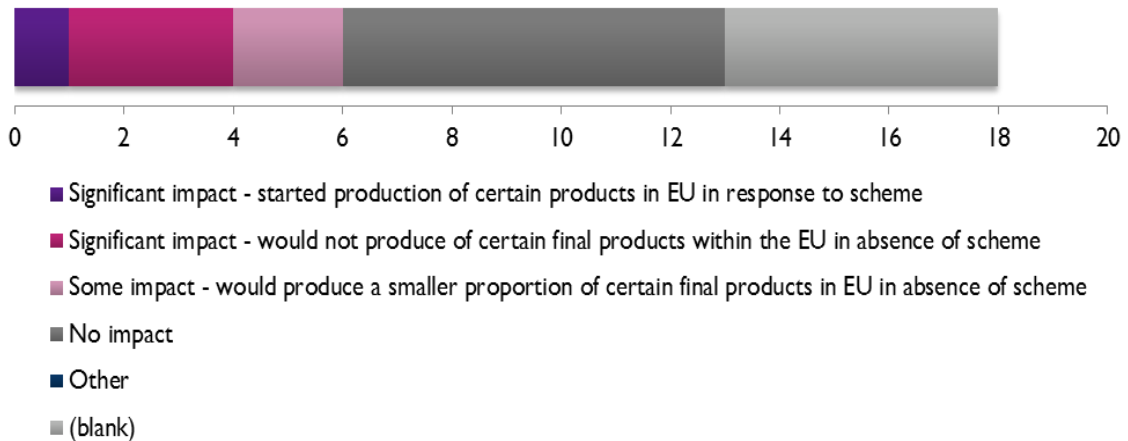
**Extent to which scheme has affected choices of where to manufacture products**

The tariff suspensions scheme may have affected SMEs’ choices of where to manufacture final products. We would expect the impact of the scheme on production location to be smaller for SMEs than for larger firms because smaller firms are more likely to be based in only one country and are more likely to produce a smaller range of products. Therefore, relocating the manufacturing of a product in response to the tariff suspensions scheme is likely to be more disruptive for SMEs.

Figure 5.24 shows that approximately 54% of SMEs that responded to a survey question on production location stated that the scheme had had no influence on the decision to produce within the EU. Relative to all respondents, the percentage of firms reporting that the scheme had no impact is greater by approximately 19 percentage points. Our survey evidence hence supports the hypothesis that the production choices of EU SMEs are less likely to be influenced by the tariff suspensions scheme.

**Figure 5.24: Effect on decision to produce with the EU**

The effect of tariff suspension on decision of whether to produce final goods within the EU



*In summary, we have found that the tariff suspensions scheme has had relatively little impact on the choice of production location for EU SMEs.*

**Extent to which scheme has affected choice of production method**

A final relevant factor when estimating the extent to which the tariff suspensions scheme has helped to create the conditions for growth of EU SMEs is the extent to which the scheme has affected the choice of production method.

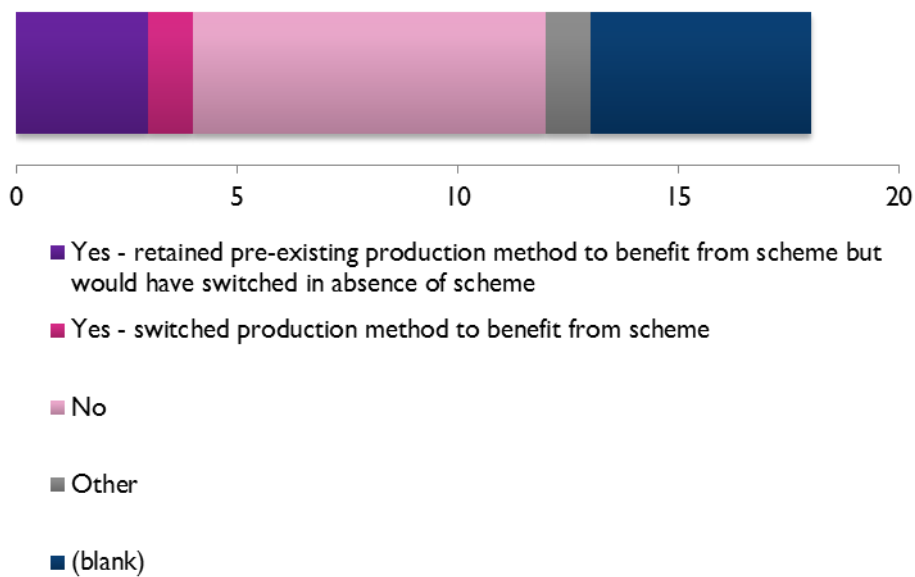
Of those SMEs that responded to the relevant survey question, approximately 30 % stated that the scheme had affected the choice of production method. Of these, the

majority stated that the scheme had led them to retain a pre-existing production method that they would have switched away from in the absence of the scheme.

These results suggest that the suspensions scheme has led a minority of SMEs to make an inefficient production decision (see section 5.1 for a discussion of the rationale for this inference). The proportion of SMEs that made such a decision is greater than the proportion of larger firms that made the same decision and hence it is possible that the scheme may be slightly hindering on the future growth of some SMEs but dissuading them from adopting a more efficient production process.

**Figure 5.25: Effect on choice of production method**

The effect of tariff suspension on choice of production method for final product



*In summary, we have found that the scheme may slightly hinder the growth of some SMEs by discouraging the adoption of a more efficient production process.*

**Conclusion**

As discussed in the previous chapter, *SMEs in general* are less likely to be aware of the tariff suspensions scheme than are larger firms and are also less likely to apply for a suspension that would benefit their business. This suggests that the *total benefit* of the scheme to SMEs in terms of creating the conditions for SMEs to grow is not as great as it could have been if awareness of the scheme were greater.

However, *for those SMEs that are aware of the scheme* and have applied for a tariff suspension, we consider that the tariff suspensions scheme has helped to create the conditions in which these firms can grow. The scheme has reduced the costs of EU SMEs and this led to a reduction in the final product price charged by the vast majority of SMEs that responded to our survey. The scheme has therefore helped to boost the price-competitiveness of SMEs relative to non-EU producers but the impact on price-competitiveness with respect to other EU producers is less clear.

The scheme also led to an increase in demand for products produced by EU SMEs to a greater extent than for products produced by larger companies. This is probably due to the pass-through of duty saving accounting for a greater proportion of the final product price for SMEs than for larger companies. This increase in demand has had little impact on employment but has affected the profitability of many SMEs that responded to our survey. While a smaller percentage of SMEs than larger companies state that the scheme has increased profitability, a greater percentage state that it prevented losses.

As one might have anticipated, the tariff suspensions scheme appears to have had little impact on SMEs' decisions of whether to produce within the EU. SMEs are more likely to operate only within the EU than are larger firms and hence the cost of switching production to a non-EU location would be significantly greater for SMEs. Therefore, SMEs are less likely to have considered shifting production to a non-EU location in the absence of the scheme and so the scheme is more likely to have had no impact in this regard.

### **5.3. Impact on producers from countries with special trading agreements**

Evaluation question:

To what extent has the tariff suspension scheme generated positive and negative effects on producers from countries with special trading agreements, in particular countries eligible for EBA and EPA schemes and the Western Balkans?

At present, the EU has special trading agreements with a significant number of countries. Under these agreements, products from eligible countries may be imported to the EU without the payment of import duties. The special trading agreements therefore confer a competitive advantage to eligible countries with respect to non-EU countries that do not have such agreements with the EU.

When a CCT duty suspension is granted, it automatically applies to all non-EU countries. Therefore, duty suspensions lower the cost of importing from countries that do not have special trading arrangements with the EU but can have no impact on the cost of importing from countries with such arrangements. This indicates that the tariff suspensions scheme can lead to an erosion of trade preferences with countries that have special trading arrangements. The questions for this evaluation are:

- whether this preference erosion is relevant (because the countries with preferential regimes actually have a market share to begin with); and
- whether it results in a change in the market share of those countries.

In cases where the first of these criteria holds, it is informative to consider how the tariff suspensions scheme affects producers in countries with special trading arrangements. For these producers, the tariff suspensions scheme may:

- encourage imports from countries without special trading arrangements at the expense of those with such arrangements (e.g. by substituting imports from other third countries for those of countries with special trading arrangements); and/or

- facilitate imports from countries with special trading agreements by providing an alternative mechanisms with lower administrative burden.

We have assessed the evidence for these potential impacts by considering countries that belong to the following special trading agreements:

- Economic Partnership Agreement (EPA);
- Everything but Arms (EBA); and
- Western Balkans.

We first present the findings from three interviews that were conducted with representative organisations of relevant third countries. We then report the results of a macro-level analysis that draws on data provided by DG TAXUD and data that the evaluation team obtained from Eurostat. We then use the same data to conduct a product level analysis.

## **Interviews**

Three interviews were conducted with representatives of organisations representing the interests of (some of) the third country trading partners that currently benefit from preferential access to the EU market.<sup>36</sup> All confirmed that the EU's tariff suspensions regime could potentially affect EBA, EPA and Western Balkans countries, if the import tariffs were suspended for any raw materials or intermediate goods for which these countries have a local production capacity that is (or can be) competitive. It was suggested that the best indicator for this is the existence (prior to or after the suspension is granted) of exports of such goods to the EU. Although interviewees were not in possession of the full picture (i.e. data on the exact products for which suspensions have been granted and the extent to which this overlaps with exports from the countries in question), their shared view was that overall, the impact is likely to be very limited.

This is due to the fact that the majority of suspensions (and the highest volumes and values of imports to the EU benefiting from suspensions) are for products which do not feature prominently among the exports of the countries in question. Interviewees confirmed that, in the case of the Western Balkans countries, the industry in the region (and the bulk of exports to the EU) are mainly based on low / medium-low tech industries, in particular textiles, clothing, and agricultural products including tobacco.<sup>37</sup> Least developed countries (LDCs) are also reportedly not competitive in the market for micro/mechanics and chemical products, which make up the bulk of suspended goods. As yet unpublished trade data provided by UNCTAD following the interview confirms that the overlap between categories of goods with a high number / volume of suspensions and the main exports to the EU from LDCs is minimal. It was noted that Africa in particular is largely specialised in natural resources and primary commodities. Thus, while interviewees did not rule out that a negative impact may arise from the preference erosion in a few specific cases (more likely to affect lower / middle-income trade partners than LDCs, due to the former group's greater competitiveness in the

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<sup>36</sup> Interviews were conducted with representatives of the Central European Free Trade Association (CEFTA), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Economic Commission for Africa (UNECA). The Secretariat of the African, Caribbean and Pacific Group of States (ACP) was also contacted but was not available for comment.

<sup>37</sup> For an overview of trade statistics compiled by CEFTA see <http://www.cefta.int/statistics>

main types of goods falling under suspensions), they considered it unlikely that this impact would be significant.

As regards possible positive impacts that may arise from the fact that (unlike imports under special trading agreements) imports using tariff suspensions are not subject to any administrative requirements (except only those products subject to an end-use control), the predominant view was that this is also unlikely to be significant. Interviewees argued that the main administrative burden for (non-tariff suspended) imports is usually due to rules of origin; however, the burden from these was said to be relatively light under the EU preferential trade agreements in question. One interview referred to analysis conducted by the International Trade Centre (ITC) on weighted tariff margins to back up this point.

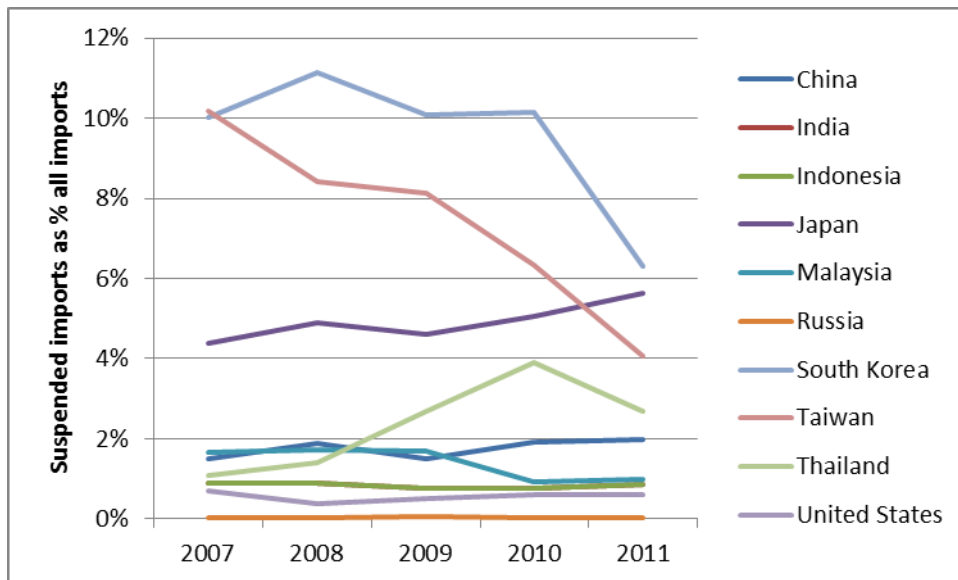
**Macro-level analysis**

Figure 5.26 shows the value of trade in products that are subject to a CCT duty suspension as a proportion of total imports to the EU 27 from the EU’s ten most significant trading partners.

The chart shows that trade in suspended products accounted for a significant proportion of trade with South Korea and Taiwan at the beginning of the period covered by this evaluation but declined over time. As shown in Figure 3.7, the key explanation for this trend is a decline in the value of micro/mechanics products exported by these countries.

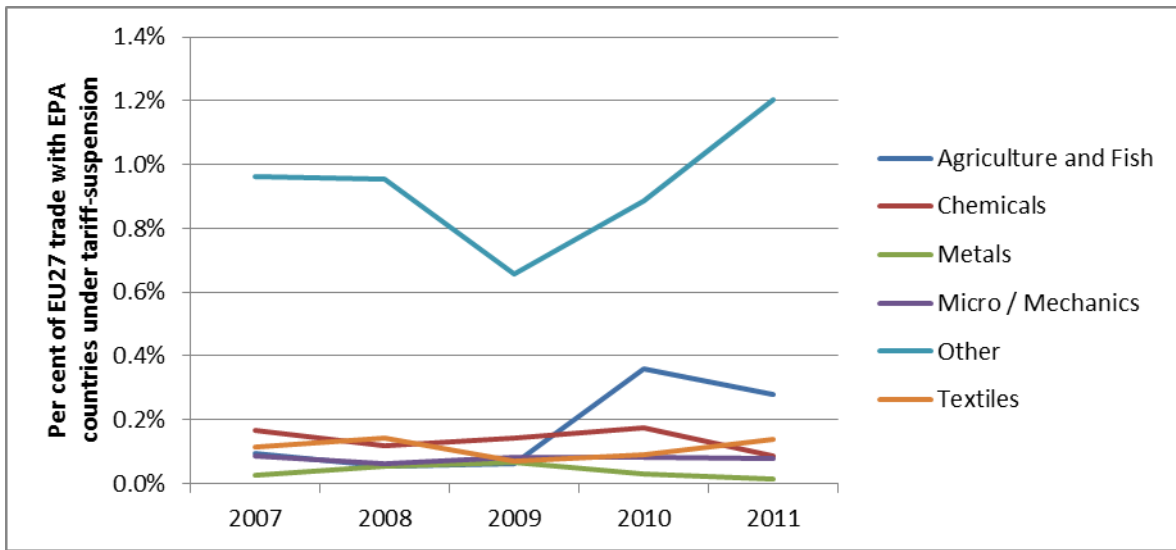
Trade in suspended products accounted for less than 5% of all trade for the remaining countries, with the sole exception of Japan in 2010 and 2011.

**Figure 5.26: Value of suspended trade as a percentage of total EU imports, by country**



Comparing Figure 5.26 with Figure 5.27, the proportion of imports from EPA countries that are subject to tariff suspension appears to be slightly lower than for some of the EU’s most significant trading partners. The same is true for the Western Balkans (see Figure 5.33) and EBA countries (see Figure 5.30), with the exception of the ‘other’ product category in the case of the EBA countries.

Figure 5.27: Value of suspended imports from as percentage of all imports from EPA countries



It is not possible to identify whether the tariff suspensions scheme has had an impact on trading patterns simply by comparing these charts. To assess the extent to which the scheme has had this effect, we analyse the types of products that are typically exported by countries with special trading agreements and consider the impact that the tariff suspensions scheme may have had on these countries.

Figure 5.28 shows the total value of EU imports from EPA countries. The most significant imports by value are the chemicals, other and agriculture/fish product categories. These same categories also have the highest proportion of imports under suspension (see Figure 5.27) and so it appears that the suspensions scheme has not led to a complete diversion of trade in suspended products away from EPA countries.

Figure 5.28: Value of EU27 imports from EPA countries

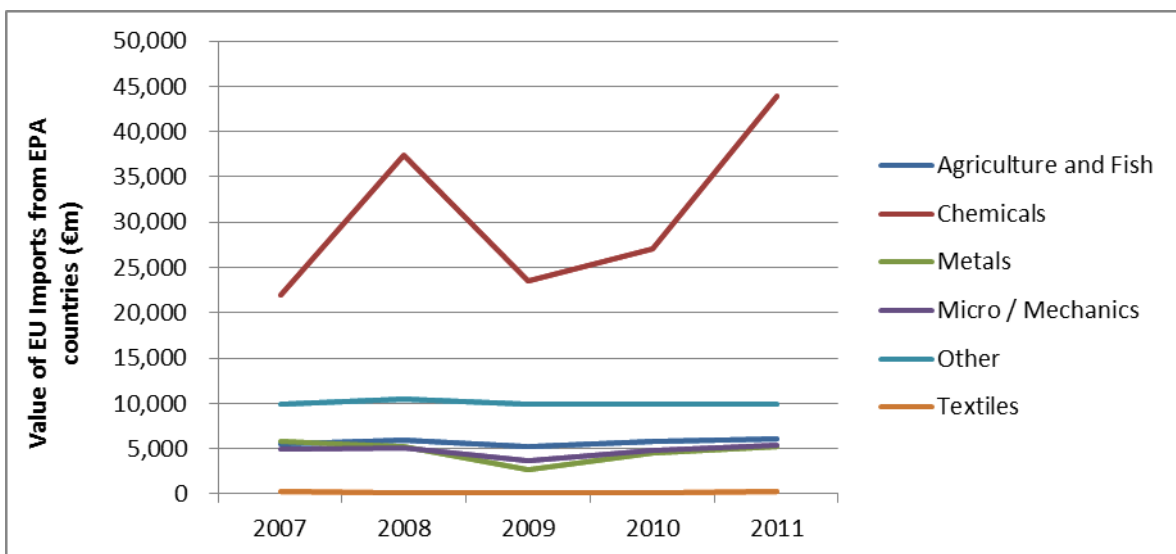
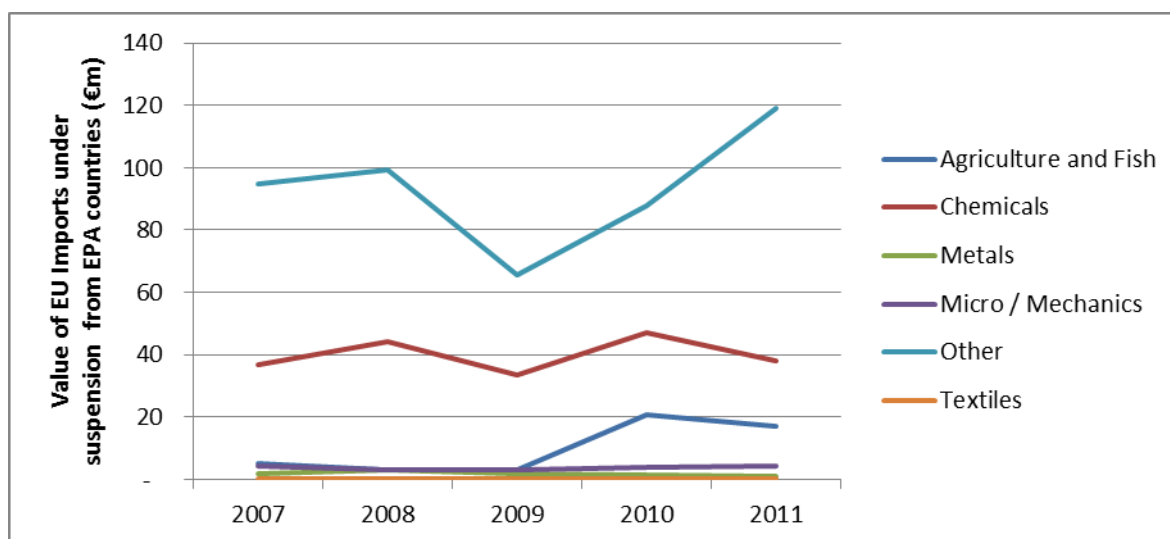


Figure 5.29 shows that the value of imports from EPA countries in products that are under a tariff-suspension has generally increased over time with the exception of a significant fall in 2009. That decline in the value of trade in suspended products can

be explained by the economic recession that occurred in Europe during this period. The fact that a significant number of suspensions were not prolonged in that year may also have had a minor impact, but it should be noted that only underutilised or low utilised suspensions were eliminated.

Figure 5.29: Value of EU27 imports from the EPA countries under tariff-suspension



To develop this analysis further we identified the ten product categories (defined by HS chapter), in which there were the greatest value of exports from the EPA countries to the EU. These are shown in the table below. We also indicate whether any suspensions have been applied to products belonging to that 2-digit Code, based on the information provided on page five of DG TAXUD's Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011).

Table 5.1: Greatest value of exports from EPA countries to the EU27 (2007-2011)

Product	HS Chapter	Suspensions in Chapter?
Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	27	Yes
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin	71	No
Cocoa and cocoa preparations	18	No
Ores, slag and ash	26	No
Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	84	Yes
Edible fruit and nuts; peel of citrus fruits or melons	8	Yes
Iron and steel	72	Yes
Ships, boats and floating structures	89	No
Aluminium and articles thereof	76	Yes
Fish and crustaceans, molluscs and other aquatic invertebrates	3	Yes

The table shows that there are no CCT duty suspensions in four of these HS chapters and so the scheme has had no impact on trade with EPA countries in those goods. We cannot rule out the possibility that the suspensions scheme has affected the value of trade with EPA countries in the remaining HS chapters on the basis of these data, however.

Figure 5.30 shows that, in all product categories except 'other', a very small proportion of imports from EBA countries are subject to a tariff suspension. However, the proportion of imports under suspension of goods that belong to the 'other' product category is approximately four times greater than the corresponding figure for EPA countries.

**Figure 5.30: Value of suspended imports from as percentage of all imports from EBA countries**

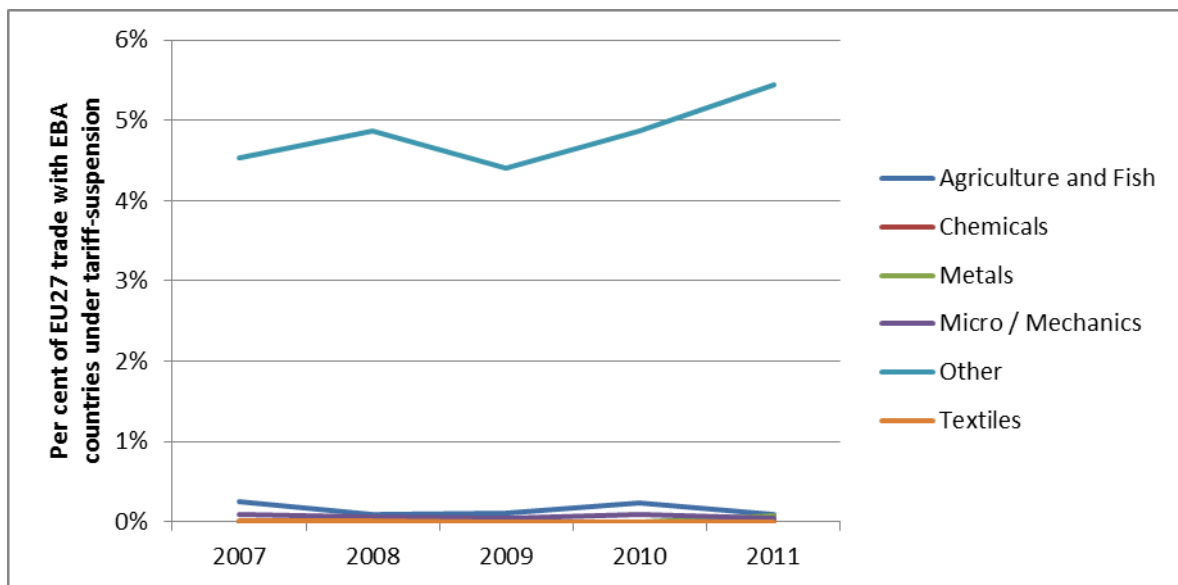


Figure 5.31 shows the total value of imports from EPA countries by product category and Figure 5.32 shows the same statistics for products imported under a tariff suspension. As for the EPA countries, chemicals account for the bulk of imports from the EBA countries and agriculture/fish are also significant. However, the metals product category is the third most significant import from EBA countries compared to other products for EPA countries.

Figure 5.32 shows that during the period covered by this evaluation, there has been an increase over time in the value of trade in imports of suspended products from EBA countries despite a decline in 2009 (which may be explained by the effect of the recession and, potentially, the fact that a significant number of suspensions were not prolonged in that year). This suggests that the tariff suspensions scheme may not have had a detrimental impact on the imports of suspended products from EBA countries. Conversely, the fact that nearly all trade in product categories except 'other' is in goods that are not subject to a tariff suspension may indicate that there was a negative impact on imports from EBA countries in the years prior to the period covered by this evaluation.



Figure 5.31: Value of EU27 imports from EBA countries

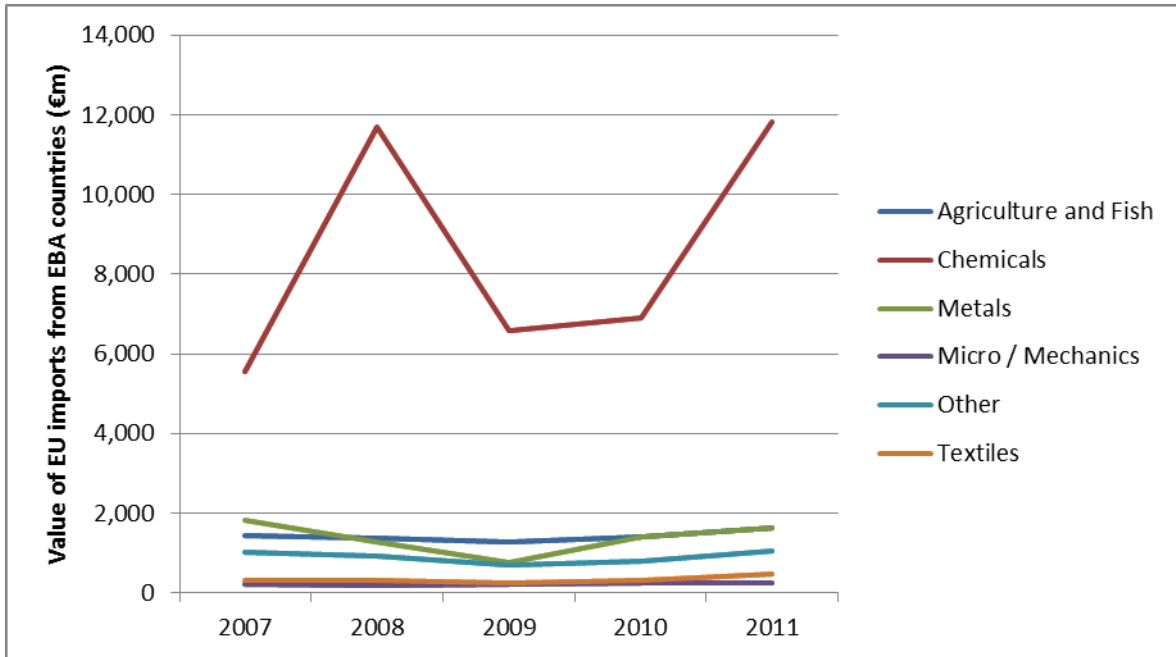
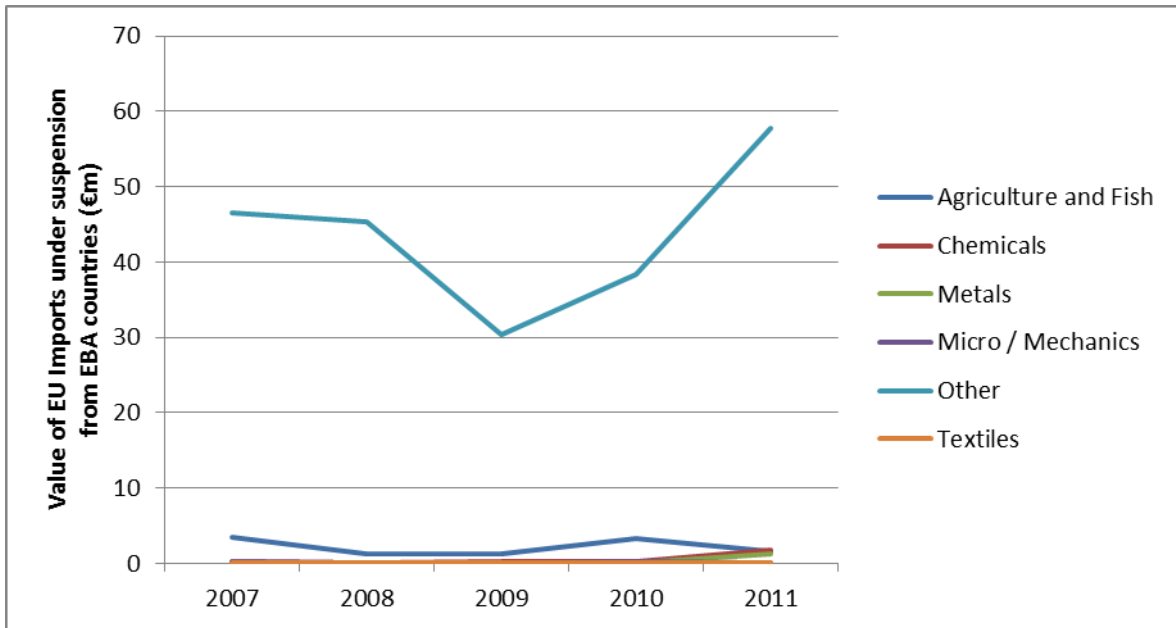


Figure 5.32: Value of EU27 imports from the EBA countries under tariff-suspension



To develop this analysis further we identified the ten product categories (defined by HS chapter), in which there was the greatest value of exports from the EBA countries to the EU. These are shown in the table below. We also indicate whether any suspensions have been applied to products belonging to that 2-digit Code, based on the information provided on page five of DG TAXUD’s Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011).

Table 5.2: Greatest value of exports from EBA countries to the EU27 (2007-2011)

Product	HS Chapter	Suspensions in Chapter?
Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	27	Yes
Articles of apparel and clothing accessories, knitted or crocheted	61	No
Articles of apparel and clothing accessories, not knitted or crocheted	62	No
Ores, slag and ash	26	No
Aluminium and articles thereof	76	Yes
Fish and crustaceans, molluscs and other aquatic invertebrates	3	Yes
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin	71	Yes
Coffee, tea, maté and spices	9	No
Ships, boats and floating structures	89	No
Tobacco and manufactured tobacco substitutes	24	No

The results presented in the table above show that more than half of the ten most significant groups of products exports of EBA countries to the EU contain no suspensions and so will not have been affected by the scheme. However, it is possible that the value of trade in the other four categories has been affected by the scheme, to some extent.

However, the results also show that despite the fact that some products belonging to code 3 (fish and crustacean...) are subject to a tariff suspension, this code accounted for the greatest value of exports under suspension from the EBA countries in each year between 2007 and 2011. The value of the EBA's exports of fish etc. under suspension fell between 2007 and 2009 but recovered in 2010 and 2011. By the end of the period, the value of exports was close to that at the start of the period. This finding further suggests that the impact of the tariff suspensions scheme on exports to the EU from EBA countries has been limited.

As for the EPA and EBA countries, imports from the Western Balkans under tariff suspension account for a modest proportion of total imports from these countries. However, Figure 5.33 shows that the highest proportion of imports under suspension from the Western Balkans is agriculture and fish rather than 'other' products that are the most significant for EPA and EBA countries.

Figure 5.33: Value of suspended imports as percentage of all imports from the Western Balkans

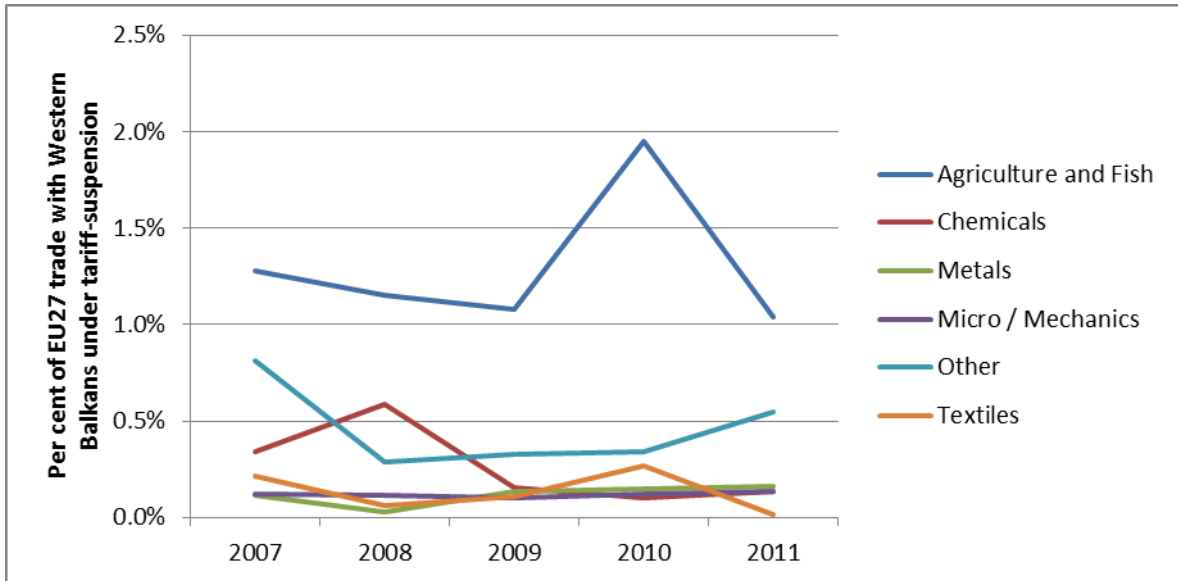


Figure 5.34 shows the total value of imports from the Western Balkans by product category and Figure 5.35 shows the same statistics for products imported under a tariff suspension.

Figure 5.34: Value of EU27 imports from the Western Balkans

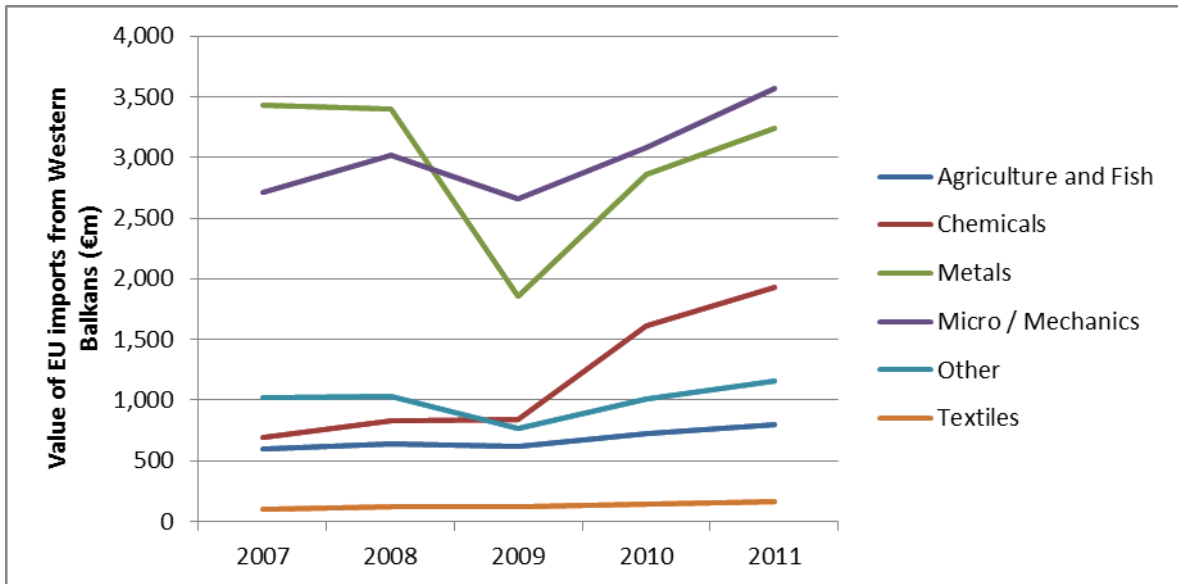
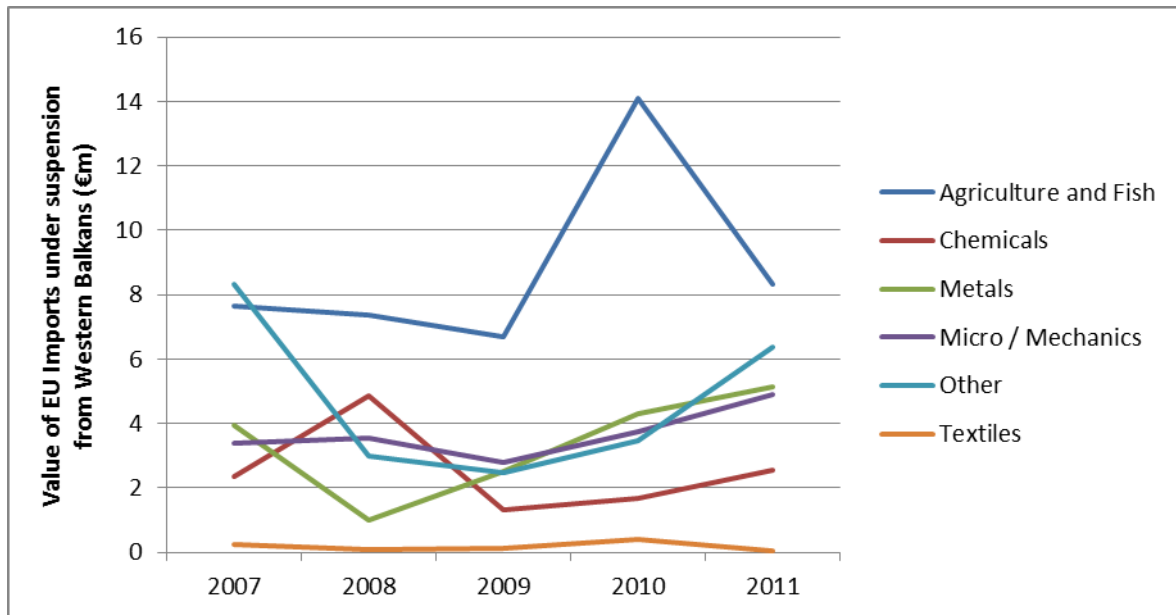


Figure 5.35: Value of EU27 imports from the Western Balkans under tariff-suspension



There are some clear differences between the types of products that are imported from the Western Balkans in the absence of suspension and those that are imported under suspension. Indeed, of the three product categories that have the greatest import values, only metals also belongs to the three product categories that have the greatest values of suspended imports.

In addition, there is little consistency in the trends of total imports and imports under suspension. While the total value of imports has generally increased over time, the value of imports under suspension has been more volatile.

The pattern of suspended imports from the Western Balkans is also somewhat unusual because the non-prolongation of a significant number of suspensions in 2009 appears to have had a less significant impact than for other groups of countries. Indeed, the value of metals imported under suspension rose in 2009 as did textiles (albeit from a very low starting point).

Based on this analysis, we consider that it is not possible to rule out the possibility that the tariff suspensions scheme has led to a reduction in EU imports from the Western Balkans. It is quite possible that the significant disparity between the types of suspended products that are imported from these countries and the types of non-suspended products that are imported may be explained by other factors. However, the fact that a significant proportion of imports of suspended products from the Western Balkans is in perishable goods (i.e. agriculture and fish) may suggest that there has been an adverse effect on products for which transport costs and speed to market are less important.

To develop this analysis further we identified the ten product categories (defined by HS chapter), in which there were the greatest value of exports from the Western Balkans to the EU. These are shown in the table below. We also indicate whether any suspensions have been applied to products belonging to that 2-digit Code, based on the information provided on page five of DG TAXUD’s Report on the Tariff Suspensions Scheme of the European Union (period 2007-2011).

**Table 5.3: Greatest value of exports from the Western Balkans to the EU27 (2007-2011)**

Product	HS Chapter	Suspensions in Chapter?
Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	84	Yes
Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	85	Yes
Iron and steel	72	Yes
Articles of apparel and clothing accessories, not knitted or crocheted	62	No
Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	27	Yes
Footwear, gaiters and the like; parts of such articles	64	No
Aluminium and articles thereof	76	Yes
Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings	94	Yes
Wood and articles of wood; wood charcoal	44	No
Articles of apparel and clothing accessories, knitted or crocheted	61	No

The results shown in the table above are, at least in terms of summary statistics, identical to those for the EBA countries. In particular, more than half of the ten product groups shown in the table above contain one or more products that to which a CCT duty suspension has been applied. For those product groups, it is not possible to rule out the possibility that the tariff suspensions scheme has affected the value of trade with the Western Balkans.

*In summary, our macro-level analysis does not provide conclusive evidence that the tariff suspensions scheme has led to a negative effect on exports to the EU from countries that have special trading arrangements with the EU. However, it is not possible to rule out such an effect through our macro-analysis, particularly for the Western Balkans.*

### **Product-level analysis**

To further analyse the impact of the autonomous tariff suspension scheme on countries with special trading arrangements, we have considered the extent to which the proportion of imports of suspended products from countries with special trading arrangements differs from the proportion of imports of similar products which originate in those countries.

If the tariff suspensions scheme has led to an reduction in imports from countries with special trading arrangements we would expect the proportion of imports of a product under suspension to be lower than the proportion of imports of similar products, defined as other products that belong to the same eight-digit CN code as the suspended product.

To investigate this issue we first selected five products that are exported from EPA countries under a tariff suspension. We selected a sample that is broadly representative of the range of products that are imported from these countries under a tariff suspension in terms of broad product category and import value. For this product, we calculate the percentage of all imports of that product that are from EPA countries, averaged across 2007-2011. We then identified the corresponding eight-digit data for each selected product and calculated the percentage of all imports of the eight-digit product group that are from EPA countries, averaged across 2007-2011. This analysis was repeated for the EBA countries and the Western Balkans.

The results of our analysis are presented in Table 5.4. Interestingly, our product level analysis has found no clear evidence that the tariff suspensions scheme has led to a reduction in imports from countries with special trading arrangements.

The key column of Table 5.4 is the ratio of the percentage of suspended imports to the percentage of total imports in the eight-digit category. A value of 1 in this column would show that the same proportion of imports are from, say, the EBA for the suspended product and the broader product group. A value greater than 1 shows that a greater proportion of suspended products are imported while a value less than 1 shows that a greater proportion of other products are imported.<sup>38</sup>

Our analysis has found a range of 0.0 to 127 in the ration of the percentage of suspended imports to the percentage of total imports in the eight-digit category. The table indicates that there is no common impact of the tariff suspensions scheme on imports of products to the EU.

A small majority of products had ratios greater than 1, showing a relatively higher percentage of imports under suspension is from countries with special trading arrangements as compared to the eight-digit level. However, this may simply reflect the products that are included in the table below and a different selection of products may lead to the opposite result. On this basis, we consider that the product-level analysis does not provide robust evidence for the impact of the tariff suspensions scheme on countries with special trading arrangements.

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<sup>38</sup> It is possible that there are other products within each 8-digit product category that are also subject to a CCT duty suspension. Nonetheless, unless the whole 8-digit product group is subject to a tariff suspension, some non-suspended products are present within each group and hence comparing the proportions of suspended and non-suspended imports can provide an indication of whether the tariff suspensions scheme may have affected EU imports of that product.

Table 5.4: Imports of certain products from countries with special trading arrangements

Trade agreement	10 digit product code (suspended product)	Broad Product Category	% imports of suspended product	% of imports in linked 8 digit category	Ratio of % suspended imports to % 8-digit imports
EPA	2009493091	Agriculture and Fish	11.0%	9.9%	1.1
	2914199040	Chemicals	0%	1.3%	0.0
	3904220091	Other	1.0%	0%	77.5
	5205310010	Textiles	4.7%	0.1%	39.3
	7601209910	Metal	1.0%	0.1%	18.8
EBA	1513111010	Agriculture and Fish	0.1%	0.1%	0.9
	2805309030	Chemicals	16.3%	3.0%	5.4
	6305900093	Other	0.0%	0.3%	0.0
	5603111010	Textiles	0%	0%	126.9
	8506509010	Micro / Mechanics	0%	0%	3.8
Western Balkans	711590011	Agriculture and Fish	3.4%	5.1%	0.7
	3208909110	Chemicals	8.7%	0.3%	29.6
	7005102510	Other	0%	0%	0.0
	7607119010	Metal	23.7%	1.3%	18.8
	8536699084	Micro / Mechanics	0%	0.1%	0.0

Source: Europe Economics analysis based on DG TAXUD data

In light of the table above, it is interesting to note that our quantitative analysis of the suspended products that were the subject of our case studies found zero trade with the EBA, EPA or Western Balkan countries for the majority of case study products. The only exception to this was the case study on vinylidene-chloride methacrylate co-polymer in which we found evidence of an extremely small proportion of imports from Croatia in 2011.<sup>39</sup>

In many cases, we also found little evidence of imports from the EBA, EPA or Western Balkan countries in trade of other products that share the same eight-digit CN code as the case study product. For example, we found that for products that share the same eight-digit CN code as vinylidene-chloride methacrylate co-polymer, Italy was the only country that traded with EPA countries between 2009 and 2011 and its imports averaged 0.08 % of the total trade by value between 2008 and 2011. We found no evidence of trade with the EBA countries while, on average, trade with the Western Balkans accounted for 0.06 % of total imports by value. A similarly trivial proportion of imports from the EBA, EPA or Western Balkan countries in trade of other products that share the same eight-digit CN code as the case study product was observed for eight other case studies, including one case that had zero imports from these regions.

<sup>39</sup> We note that Croatia joined the EU on 1 July 2013. However, this evaluation covers a period between 2007 and 2011 and so Croatia is treated as a third-country.

In all these cases, we can conclude that the tariff suspensions scheme does not appear to have affected EU imports of products from countries with special trading arrangements.

For two case study products, however, we could not rule out the possibility that the tariff suspensions scheme has led to a negative impact on imports from the EBA, EPA or Western Balkan countries.

For polyethylene non-woven, we consider that it is reasonable to assume that the tariff suspensions scheme has not led to a negative impact on imports from the EBA or Western Balkan countries. However, the proportion of imports at eight-digit CN code level that are derived from the EPA countries is non-trivial at 2.4 %. Therefore, given the data available, it is not possible to rule out negative impact on imports from the EPA countries.

For pineapple in pieces we observed that close to 4 % of trade at the eight-digit CN code level is with the Western Balkans while zero per cent of a suspended product is imported from these countries. In general, this would suggest that there may have been a negative impact on imports from these countries due to the tariff suspensions scheme. However, pineapples are a tropical fruit and are not grown in the Western Balkans. Therefore, in this case, we can conclude that the tariff suspensions scheme has had no impact on trade with the Western Balkans. Given that the proportion of trade with the EBA countries at eight-digit CN code level is so small (0.05 %), we consider that the tariff suspensions scheme is unlikely to have affected EU imports from these countries. However, with respect to the EPA countries, the impact of the suspension scheme on trade is less clear and we cannot rule out the possibility that the scheme had a negative impact on imports from these countries given the data available to us.

*In summary, our product level analysis has found limited evidence that the tariff suspensions scheme has led to a negative impact on imports from the Western Balkans, EPA countries and EBA countries.*

## **Conclusion**

Overall, it is not possible to draw robust conclusions concerning the impact of the tariff suspensions scheme on countries that have special trading arrangements with the EU.

The key challenge for identifying such an impact is the availability of data: a robust conclusion on the impacts of the scheme on trade preference would require pre- and post-suspension data on imports of suspended products from the potentially affected countries. Unfortunately, such data are not available due to the fact that data are only gathered on suspended products after the suspension has been granted.

While it has not been possible to draw robust conclusions, our macro-level analysis suggests that the tariff suspensions scheme:

- has not had a significant impact on imports to the EU from EPA or EBA countries (in the latter case because suspensions do not occur in the vast majority of the categories which make up the bulk of exports to the EU); but
- may have had some limited negative impact on imports to the EU from the Western Balkans.



Our product-level analysis found limited evidence that the tariff suspensions scheme has had a negative impact on trade with EBA and Western Balkan countries.

Nonetheless, it is important to note that the macroeconomic significance of any impact of the suspensions scheme on imports from countries with special trading arrangements would be limited. The proportion of trade in suspended products is very small even for those countries which may have benefitted from a deflection of trade preferences. This indicates that, even if the scheme has had an adverse impact on the exports of the EPA, EBA and Western Balkans, the macroeconomic scale of impact would be close to negligible.

#### 5.4. Impact on EU leverage in trade negotiations

Evaluation question:

To what extent do the suspensions affect the leverage of the EU in trade negotiations with third countries?

In theory, the autonomous CCT duty suspensions scheme could affect the leverage of the EU in trade negotiations with other countries and regions. By unilaterally reducing or waiving import tariffs, the EU effectively makes concessions for free, which could mean it has less to offer in return for concessions from negotiating partners. A loss of leverage in trade negotiations could lead to less favourable terms for the EU in Free Trade Agreements and so have a negative impact on the competitiveness of companies based in the EU.

We explored the relevance of this issue in interviews with European Commission officials from the Directorate-General for Trade (DG TRADE) who have participated in recent trade negotiations. These interviews helped to clarify that in *multilateral* negotiations (in the context of the World Trade Organisation) the reference values used as the basis for negotiations are the 'bound' rates. However, the real duty impact on the EU customs revenue in multilateral negotiations is assessed on the basis of the applied rates in CN8-digit, without considering any duty suspensions which would have to be extracted in TARIC 10-digit and complicate the calculations. This means that suspensions play no role, as they represent (temporary) unilateral concessions that only affect the 'applied' rates.

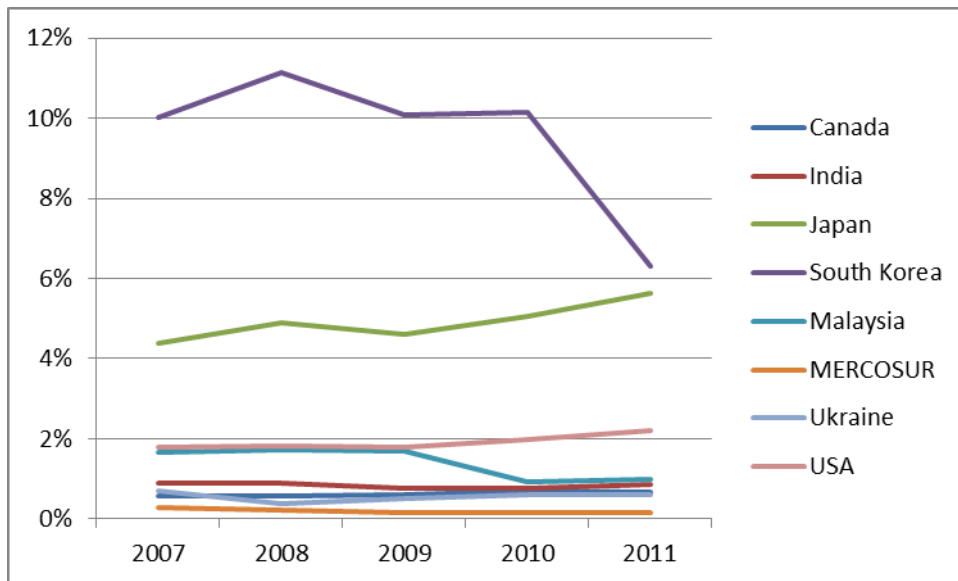
*Bilateral* negotiations often diverge from bound rates and use applied rates instead. This means that, in theory, suspensions could be taken into account and result in a loss of leverage. However, a common theme that emerged from the interviews is that, in practice, the autonomous CCT duty suspensions scheme has had no impact on negotiations in practice, and is unlikely to have an impact in the foreseeable future. The reasons given for this absence of impact were:

- Trade negotiations are usually held at tariff line (i.e. 8-digit CN code) level and only very rarely consider the 10-digit level.

- By contrast, the majority of CCT duty suspensions are granted at the 10-digit level and so CCT duty suspensions are not identified in (or the subject of) trade negotiations.
- The imports of suspended goods are too small to be of significant concern to those involved in trade negotiations.
  - DG TRADE officials were under the impression that only a very small fraction of imports from relevant third countries benefit from suspensions, meaning that their impact in practice is too small to be worth taking into account in negotiations. This statement is somewhat contradicted, however, by Figure 5.36, which shows the EU-27 imports under autonomous tariff-suspension as a percentage of total imports from various non-EU countries or blocs with which the EU has recently concluded a free trade agreement (South Korea), or is currently negotiating (Canada, India, Malaysia, MERCOSUR, Ukraine, USA and Japan).

The chart shows that during the period covered by this evaluation, the proportion of imports from South Korea under suspension ranged from 6 % to more than 10 % while the range for Japan was 4 % to 6 %. While the proportion of imports under suspension from MERCOSUR is relatively trivial, the figure suggests that DG TRADE’s impression is correct only for a subset of countries.

**Figure 5.36: EU27 imports under autonomous tariff-suspension with various non-EU countries as a percentage of total imports from each country**



Source: DG TAXUD; Europe Economics’ calculations

- The CCT duty suspensions scheme is somewhat opaque to ‘outsiders’.
  - DG TRADE officials acknowledged that even they find it difficult to have a full picture of the products that benefit from suspensions and the volume of trade in those products. They considered that it is extremely difficult (if not impossible) for third-country counterparts to obtain and analyse enough

suspensions data that they could effectively use information on CCT suspensions during trade negotiations.

- This information imbalance even means that, in theory, DG TRADE (which has better access to information than third country counterparts) could use this information imbalance to gain leverage (i.e. offer concessions that in fact are worth less than the counterparts think) – but the other two points mean that, in practice, this has not been the case. The gain of leverage would furthermore be sometimes limited given the averaged low level of EU duty rates compared to certain partner countries.

It may also be worth noting that some third countries have their own unilateral tariff suspensions schemes or mechanisms (such as the USA, where suspensions are included in the Miscellaneous Tariff Bill), which may (in theory at least) reduce their own leverage, and consequently their appetite for raising the EU's scheme during the negotiations.

### **Conclusion**

In practice, it seems that the tariff suspensions scheme has not had an impact on EU leverage in trade negotiations in the past. The key reasons for this are that: i) trade negotiations are usually held at broader product categories than those for which suspensions are typically granted; ii) for most countries, the trade flows of suspended goods are perceived to be too small to be of significant concern to those involved in trade negotiations; and iii) third countries would find it difficult to obtain and analyse the data that would be required to use the suspensions scheme as an effective negotiating tool.

However, it is worth noting that in the case of some countries with which the EU is currently negotiating (especially Japan) the volume of imports affected by autonomous suspensions are not entirely insignificant. Therefore, the CCT duty suspensions scheme could – in theory at least – be used as a negotiating tool by the counterparts to the EU. It seems that a lack of transparency, combined with the unilateral and temporary nature of autonomous suspensions, has prevented this from happening so far. However, the possibility that the suspensions scheme may eventually become an issue in free trade negotiations, and could potentially have an impact on the outcomes cannot be ruled out.

## 6. Overall conclusions and recommendations

Drawing on the findings presented previously, this section assesses the suspension scheme's overall impacts, discusses whether its existence is still justified, and identifies room for improvement as regards the scheme's implementation.

Evaluation question:

To what extent is the tariff suspension scheme still justified?

### The benefits (main intended impacts)

Tariffs are imposed in order to protect domestic production. Where no such production exists, tariffs increase prices for domestic users / consumers (directly or indirectly via companies that use the imported good as an input for their production of other goods) and thereby not advantageous for the economy.

In the absence of domestic production to protect or foster, there is no clear economic rationale for imposing tariffs on foreign imports.<sup>40</sup> In these circumstances, the only tangible benefit is the government revenue from the collection of these tariffs, but it is generally accepted that tax revenues on consumption are more efficiently collected via other forms of taxation such as VAT. In the absence of excise duties, the costs of customs administrations would be covered through revenue raised through these other forms of taxation.

Thus, the core rationale for the EU's tariff suspensions scheme remains valid. The evaluation confirms the economic benefits for EU producers that use tariff-suspended imports as inputs in their production process. The resulting cost savings can be significant. During the period covered by this evaluation (2007-2011), the total value of foregone tariff revenue is €4.7 billion, which equates to an average annual cost saving for affected businesses of approximately €600,000 per TARIC code linked to a suspension. This average masks a huge variety; cost savings resulting from the tariff suspension for a given product can range from €15,000 per year (the minimum threshold for a suspension to be granted or prolonged) to several hundred million Euros (in the case of a select few products). This typically accrues to a relatively small number of companies (sometimes just one) that import the specific product in question.

Approximately half of the savings were related to micro/mechanics products which are typically imported by high technology firms. The next greatest saving accrued to those that import chemistry products. In absolute terms, Germany (which accounted for just

<sup>40</sup> It might be tempting to believe that the tariff suspension scheme introduces distortions to relative prices that are intrinsically inefficient. Given this belief, some may argue that there would need to be a material offsetting benefit (e.g. boosts to output and employment) to justify the scheme.

This is incorrect, however, because the comparison is not between a suspended import and a non-suspended import from outside the EU; the proper comparison is with other products made entirely within the EU that face no tariffs at all.

Therefore, conceived correctly, the tariff suspension scheme reduces distortion of relative prices (relative to products manufactured within the EU) and as such should be seen as favourable unless there is evidence that it introduces other distorting incentives or is very costly to administer.

under 25 % of tariff-suspended imports), Hungary and Slovakia were the Member States that imported the greatest value of products under tariff suspension between 2007 and 2011. In relative terms, the greatest beneficiaries were firms based in the Czech Republic, Hungary and Slovakia; for these three countries, more than five % of all imports were subject to a tariff suspension.

The evaluation also confirms that these cost savings result in wider benefits. Although the data obtained from economic operators does not allow us to quantify these effects, the cost savings lead to higher profitability (or the reduction of losses), lower user / consumer prices, more efficient production methods, and/or positive effects on employment. The exact effects in the case of each suspension depend on the product, company and sector in question, and can entail any combination of these.

### **Possible (unintended) negative effects**

Thus, the underlying economic rationale for the suspensions scheme remains sound, and the scheme is effective in reaching its primary objective, i.e. to enhance the competitiveness of EU enterprises by allowing them to benefit from cheaper imports. However, other (unintended) effects could, in principle, significantly reduce, offset or even outweigh these benefits. The evaluation has investigated the following possible unintended effects:

- Domestic producers: Negative impacts on EU producers of identical, equivalent or substitute goods are likely to arise, if and where such goods are manufactured within the EU. The process of objections is meant to eliminate this risk, but the controversy around objections suggests that this process is not entirely effective. Anecdotal evidence encountered by the evaluation indicates there may be cases where suspensions are granted in spite of a (potentially) equivalent or substitutable product being available. However, the evaluation results do not suggest that this is a widespread problem, and it seems unlikely that the scheme does significant harm to EU producers at present, certainly not on a level that would call into question the overall economic justification of the scheme. Nonetheless, there is room for improvement and clarification as regards the objections process, in order to further minimise the risks (see below).
- Profits retained by importers: The positive impact on the competitiveness of EU businesses would be weakened if a significant part of the cost savings were retained by an importer (i.e. a third-party intermediary). However, the survey and case studies show that the vast majority of EU businesses that use suspended goods import these directly, meaning that the bulk of the benefits do accrue to and help to bolster the competitiveness of EU manufacturing businesses.
- Producers in third countries: By definition, a suspension of import tariffs *erga omnes* results in an erosion of the preferences the EU has granted to countries with special trading agreements, including ACP countries (via EPAs), LDCs (via EBAs), and countries in the Western Balkans. However, in practice this preference erosion is a potential concern only for a subset of products: there is only a partial overlap between the types of products for which tariffs have been suspended, and the exports of the countries that benefit from special trading agreements. Regarding EBA countries, for example, not a single suspension has been granted in six of the ten product categories that make up the bulk of their exports to the EU. Although we cannot rule out that a small number of specific producers from said countries may have been negatively affected

(possibly in the categories of agricultural goods, fisheries products, or aluminium), the evaluation found no evidence for any such cases, and if they had occurred, the macroeconomic scale of impact would be close to negligible.

- EU leverage in trade negotiations: By unilaterally eliminating import tariffs for certain goods, in theory the EU reduces its leverage in international trade negotiations, in the sense that it has less to offer in return for concessions from third countries. However, in practice this has not materialised in recent negotiations, because for most countries, the trade flows of suspended goods are perceived to be too small to be of significant concern to those involved in trade negotiations; and because third countries would find it difficult to obtain and analyse the data that would be required to use the suspensions scheme as an effective negotiating tool. Nonetheless, in a few specific cases, suspensions affect a higher proportion of trade (in particular Japan, around 5 % of whose imports benefit from suspensions), which – if it were brought up during negotiations – could potentially weaken the EU’s negotiating position.
- Cost of administering the scheme: Running and administering the scheme requires a significant investment in time from officials at DG TAXUD and national administrations; based on the available data, we estimate this to amount to around 50 FTEs in total. However, the feedback from national delegates shows that the burden on national authorities is not viewed as excessive, and the delivery mechanisms on the whole were found to be efficient. This includes end-use controls, the enforcement of which is not a major cause for concern among customs authorities. As regards economic operators, the vast majority report that the cost of applying is dwarfed by the benefits (i.e. cost savings), although there are instances when objections can lead to arguments, exchanges and requests for information that are deemed rather burdensome. Overall, however, the cost of administering the scheme for the public sector, and the administrative burdens and compliance costs it imposes on businesses, was found to be reasonable.

Thus, while there are a number of concerns, and some (anecdotal) evidence of unintended negative effects in some cases, these are nowhere near significant enough to call into question the overall effectiveness and justification of the scheme, which should continue.

### **Room for improvements**

In the future, if/when tariffs fall further (as a result of multilateral trade rounds and/or the conclusion of free trade agreements with major trade partners that today supply the bulk of the imports under suspensions), the benefit-cost ratio of the scheme is likely to deteriorate. As some ETQG delegates suggested, the advent of Free Trade Agreements between the EU and other trading blocs may render redundant many of the existing suspensions and could call into question the rationale behind the entire scheme. There may come a time when the benefits no longer justify the costs. It is recommended to review the situation again when tariff schedules fall further.

In the meantime, the evaluation has shown that there are a number of areas related to the implementation of the scheme that lead to practical difficulties. Features that should be reviewed include:

- Awareness raising (in particular among SMEs): The evaluation has shown that ‘insiders’ (i.e. those who are aware of the scheme and often have previous experience with suspensions) find it relatively easy to navigate the system and

obtain the necessary information. However, at present there seems to be an information imbalance: the level of awareness depends to a great extent on the efforts of national authorities and trade associations, with very unequal results. Companies in certain countries and/or sectors, and in particular SMEs, tend to be less aware of the opportunities provided by the scheme.

In order to raise the awareness of the scheme more equally among all EU firms, irrespective of their size and location, the EU should take steps to ensure that all EU manufacturing businesses (including SMEs) have the opportunity to be informed.

The EC should also consider if and how it could involve trade associations in the communication about the scheme to a greater extent, and in a more consistent way.

It may also be worth considering developing a simple, step-by-step guide to the scheme, explaining in clear and simple terms what it does, and how companies can apply. This could be translated into all EU languages and disseminated by both the EC and national authorities.

- Transparency vis-à-vis EU producers: Similarly to the previous point, there is also a need to take a more consistent approach to alerting EU businesses to suspension requests that may harm them (because they are able to supply the products in question) and enable them to raise an objection in cases where this is justified.

The EC should consult with ETQG members to identify ways in which a better dissemination of suspension requests among relevant enterprises could be achieved. Since some Member States seem to do this very effectively among 'their' companies, there would seem to be scope for a more consistent application of best practices in this area.

- Dealing with objections: In principle, the grounds for objections seem reasonably straightforward: where an EU producer is able to provide "identical, equivalent or substitute products" a suspension will not be granted. However, in practice, the question of what exactly constitutes an equivalent or substitute product is frequently the subject of heated debate. Examples include technically complex components (such as TV parts and their exact specifications) as well as apparently simple raw materials (such as leather of different kinds and quality grades) and even agricultural products (such as fresh, dried or frozen blueberries of different varieties). The difficulty of taking a consistent approach to such controversies leads not only to considerable frustration and loss of time, but also to questions being posed about the adequacy, fairness and transparency of the decision-making process.

To alleviate concerns by stakeholders, save time and resources and ensure the decisions are fair, the EC should consult with other relevant actors (including ETQG members) with a view to developing a definition of what, for the purpose of autonomous suspensions, constitutes an "equivalent or substitute product". Similar questions have long been posed in other areas, including competition law, so there is unlikely to be a need to 're-invent the wheel'.

- Also regarding the objections and decision-making process, a significant number of ETQG members raised concerns over situations where another EC service (such as DG AGRI) raises objections against a particular suspension request. In such situations, there can be a lack of transparency, which can lead to misgivings among delegates.

It should be clarified in what circumstances and under what conditions suspension requests will not be granted because "the Union interest dictates otherwise". EC services that wish to oppose a request should be required to clearly state the reasons and, if so desired by the members, defend their position in the ETQG.

- Particularly if the awareness of the scheme is increased further (see above), the number of applications is likely to rise, which will have implications for the time it takes the authorities to deal with them and reach a decision. Since most ETQG members would be opposed to more meetings, ways would need to be found to deal with a greater proportion of the work of the group through other channels.

DG TAXUD and the ETQG should explore if and how technical and linguistic issues (mainly to do with product descriptions and their translation or classification matters) can be dealt with outside of ETQG meetings. In particular, ways should be sought to use CIRCABC to a greater extent, so as to reserve the time during meetings for the truly crucial issues.

Finally, it is worth considering the calls from various stakeholders to 'open up' the system further, e.g. by lowering the duty savings threshold for an application to be eligible, by allowing trade associations to input more into decision-making, or by abolishing end-use controls. The expectation is that such steps, in combination with a heightened awareness of the scheme among EU manufacturing businesses, would lead to a higher number of applications, and thus a greater impact on the competitiveness of the EU economy.

However, there are drawbacks to this. Autonomous tariff suspensions represent an exception from the normal state of affairs. As highlighted above, there are costs involved in administering the scheme, and some applications (and objections) can be difficult and time-consuming to deal with, and require a careful review so as to ensure no EU interests are harmed. In view of this, it may not be desirable for the authorities to have to deal with a large number of low-value suspension requests, where the costs may well exceed the ultimate benefits.

Also, in light of the argument raised above (likely diminishing significance of suspensions as EU trade is increasingly liberalised), it may not be advisable to attempt to maximise the use of the system. Instead, the predominant concern should be fairness – meaning equal opportunities for all EU firms to benefit from the system, and the maximum possible degree of legal certainty and transparency as to alerting potential objectors, the criteria for objections and how these will be applied. If this is guaranteed, there is not much of a case for making the scheme more 'liberal'. As long as the criteria are clear and transparent (see the point about substitutability above), the Commission should not hesitate to reject applications that would risk harming some EU businesses while benefiting others.