

## MMTA TRADE AND LOBBY COMMITTEE'S NEWSLETTER

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### 1. TRADE DEFENCE CASES – MINOR METALS

Trade defence investigations – anti-dumping, anti-subsidy and safeguard investigations – have become particularly attractive in the wake of the global recession. Contrary to “buy American/buy Chinese” provisions, trade defence investigations as such are recognized by the WTO for government and domestic industries to protect their domestic industries.

The EU is a frequent user of trade defence measures and most commonly, anti-dumping measures against, in particular, Chinese imports. For minor metals businesses dealing with the EU, the following *ongoing* or possibly *upcoming* investigations should be on their “watch-lists”:

- Molybdenum wires from China – opened on 8 April 2009 ([more information](#)). Provisional anti-dumping duties could be imposed as of 8 January 2010, and definitive duties (lasting for up to five years) as of 8 July 2010.
- Silicon metal from China – opened on 4 March 2009 ([more information](#)). Before 4 June 2010 the EU should decide whether or not to continue the current 49% anti-dumping duties for another five years.
- Tungsten carbide and fused tungsten carbide from China – current duties of 33% are due to expire on 1 January 2010, but can be extended for another five years if a review is opened ([more information](#)).
- Magnesium oxide from China – current duties, a combination of a minimum import price and a duty of 27.1%, are due to expire on 26 May 2010, but can be extended for another five years if a review is opened ([more information](#)).
- Other (minor) metals products are also subject to anti-dumping duties but their expiry dates are further along in the future: silicon carbide from China - 26 August 2011 ([more information](#)), tungsten electrodes from China, 14 March 2012 ([more information](#)), ferro-silicon from China, Kazakhstan, Russia and Former Yugoslav Republic of Macedonia, 1 March 2013 ([more information](#)), and manganese dioxides from South Africa, 14 March 2013 ([more information](#)).

### 2. ENERGY AND CLIMATE CHANGE

#### EMISSION TRADING SCHEME – BENCHMARKS FOR FREE ALLOCATIONS AFTER 2013

The EU Emission Trading rules were revised in December 2008 and the amended rules will enter into force as of 1 January 2013. The amended rules contain a range of implementing measures that the Commission has to negotiate with the Member States. One of the most important measures is defining rules for free allocation of CO<sub>2</sub> allowances, which should be based on benchmarks.

Stakeholder consultations will be held in the second half of 2009 regarding these allocations. Energy intensive businesses should consider making their views known and submitting information to assure that the benchmarks will be set at an appropriate level ([more information](#)).

### **POSSIBILITY OF EU IMPOSING A BORDER TAX ADJUSTMENT**

Because of the Emission Trading System, practically all producers in the EU emitting CO<sub>2</sub> will have to purchase allowances for carbon emissions through an auction as of 1 January 2013. This will inevitably lead to increased costs for EU producers. Imports from countries which have not been subject to a similar 'polluter-pays' system may obtain a competitive advantage as a result. To avoid that EU industries move production abroad (carbon leakage) and to level the playing field on the EU market, the EU is discussing the option of introducing a *Border Tax Adjustment* (BTA). The U.S. has already accepted the BTA principle.

This BTA will be an extra tax on imports to reflect the cost of purchasing emission allowances in the EU. It will likely be imposed on products that are manufactured mostly in countries that do not make commitments to reduce emissions in a way that is "comparable" to the EU. How the EU judges whether another country is making "comparable" commitments will be controversial. This will become clearer depending on the outcome of the post-Kyoto discussions at the Copenhagen summit in December 2009 ([more information here](#), [here](#) and [here](#)).

## **3. WASTE**

The EU's new Waste Directive, which replaces the Waste Framework Directive, shall be implemented in the EU Member States by December 2010.

The new rules introduce the concept of 'by-product' and the concept of 'end-of-waste' status (recovered products). Products falling under these definitions will be excluded from the waste directive. The European Commission is elaborating the definition of end-of-waste status ([more information](#)).

The European Commission is organising a conference which will be held on 1<sup>st</sup> and 2<sup>nd</sup> October 2009 in Brussels (participation subject to a fee). This would be a good opportunity for stakeholders to give input on, among other things, the definitions and operation of the new rules ([more information](#)).

**Sidley Austin LLP**

Square de Meeûs 35  
1000 Brussels  
Belgium  
Tel.: +32.2.504.64.00  
Fax: +32.2.504.64.01

SIDLEY AUSTIN LLP  
**SIDLEY**