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INFORMATION NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community - Outcome of the European Parliament's proceedings (Strasbourg, 3 to 6 February 2014)

I. INTRODUCTION

The rapporteur, Mr Christofer FJELLNER (EPP, SE), presented a report on the abovementioned proposal, on behalf of the Committee on International Trade. The report contained 69 amendments (amendments 1 - 69). A further amendment had been tabled separately by the Committee (amendment 95).

In addition, 25 other amendments (amendments 70 - 94) had been tabled by political groups (EPP, S&D, Greens/EFA and EUL/NGL).

II. DEBATE

The debate on the proposal took place on 4 February 2014.

The rapporteur, Mr Christofer FJELLNER (EPP, SE), opened the debate and:

- stated that the review of the most controversial part of European trade policy: the trade defence instruments (TDI) had been a momentous task. The issue was high on the agenda due to more high profile cases over the recent years, the Chinese solar panels being a case in point. Therefore, it has caused some frustration that the Commission presented its proposal so late in the legislature, forcing the Parliament to work under considerable pressure;
- expressed concerns over the guidelines, that were presented in parallel with the Regulation and had been debated at length with the Commission;
- underlined that despite these difficulties, the Committee had managed to find good compromises in most areas. In total, there had been 12 compromises, including on transparency (right for all interested parties to receive more information about an investigation), the establishment of an SME Help Desk in the area of trade defence instruments, helping both importers and producers and on increasing the Parliament's ability to monitor the implementation of the Regulation through an annual report from the Commission. As part of the compromises, it was also agreed to delete the proposal on reimbursement of tariffs that were collected during expiry reviews (would only create bureaucracy) and to transform the proposed obligation to cooperate for companies under trade defence proceedings into something that could be requested from the Commission (an obligation might prove very burdensome, especially for small and medium sized enterprises);
- highlighted that on two points it had not been possible to find compromises: the lesser duty rule and the shipping clause where a majority in the Committee had gone against his recommendations. However, getting rid of the shipping clause would be detrimental to European importers and the removal of the lesser duty rule would lead to punitive measures and higher tariffs and prices in trade. On the latter, the Commission kind of had it coming as it itself had proposed an exception to the lesser duty rule (on raw materials) which had then been expanded on in the Parliament;

- concluded by stating that the next step would be negotiations with the Council, and that he hoped for a quick conclusion. He would be happy to hear comments from the Council.

Commissioner DE GUCHT:

- reiterated the importance of the trade defence instruments in the context of open markets where these were often the only remedy for industry when faced with unfair trade, also as illustrated by the cases on solar panels, tableware and biodiesel. The targeted measures provided a level playing field for European industry and could be decisive for the survival of specific sectors. Action was needed to adapt the instruments to the current trading environment;
- underlined that in order to properly prepare a proposal, some time had been required, also given that the last attempt to change the TDI rules collapsed;
- stated the strength of the EU's trade defence instruments was in their balance and proportionality. He felt that some of the Committee's amendments risked changing the overall balance, in particular the removal of the shipping clause and the expansion of the exclusions from the lesser duty rule. On the latter issue, the limitation of the exception to minerals was justified by the export taxes that were sometimes put on these but he could not foresee going further than that. Those issues needed to be looked at again and he hoped that in negotiations with the Council a solution could be found;
- argued that the guidelines represented best practice and had to remain flexible and adaptable to developments. Therefore they should not become part and parcel of the Regulation. In addition, extensive consultations, including with the Parliament and the Council, had been undertaken and were still ongoing;
- finally urged that negotiations start as soon as possible (March) in view of reaching an agreement before the end of the legislature. In this context, he would try to convince the Council to equip the Presidency with a sufficiently flexible mandate and was ready to facilitate the talks from day one. Failure was not an option.

Speaking on behalf of the EPP group, Mr Daniel CASPARY (DE):

- agreed that it would have been better if the proposal had come earlier but was nevertheless thankful that so much progress had been made. Given the controversy, the Parliament had done well with the package of compromises;
- stated that, however, that two points were contentious for his group: the shipping clause and the lesser duty rule. He put his hopes in the Council to find a pragmatic solution for the shipping clause whereas the lesser duty rules was more of concern. He believed that the position voted in Committee signified a paradigm shift - from compensation towards penalty;
- believed that the package that would be voted was a good basis for moving forward. He hoped that the blockage in the Council could be overcome, so that agreement could be found quickly.

Speaking on behalf of the S&D group, Mr Andrea COZZOLINO (IT):

- welcomed the successful compromise achieved in the Parliament which could not have been imagined six months ago;
- stated that it was necessary to respond to the requirements - to defend European products and SMEs and to open a new phase with the other economies in the world;
- hoped that the Commission would defend the proposal and also the compromise reached by the Parliament because it could be a significant contribution to negotiations. It was now time to work hard and use the unique opportunity to conclude the dossier.

Speaking on behalf of the ALDE group, Ms Marielle DE SARNEZ (FR):

- stated that the modernisation of the trade defence instrument was obviously a very political question. If we wanted to preserve jobs and create new jobs and growth, then it was necessary to lead a proactive policy in favour of European industry, investments, businesses and research. However, we also needed to equip ourselves with efficient and dissuasive trade defence instruments;

- underlined that Europe in today's world could not permit itself to be naïve and defend itself less well than others, in particular the US. A real strategy was needed to do away with disloyal practices. She saw the settlement on Chinese solar panels as illustrating that Europe had to defend its interests better than hitherto.

Speaking on behalf of the Greens group/EFA, Mr Yannick JADOT (FR):

- agreed that the review was absolutely indispensable given today's tough globalised world. It was a necessary step, however not sufficient, towards the aim of having a common economic and industrial policy at EU level. The Chinese solar panels case was an example of a badly handled trade defence strategy with divided Member States and the interest in good relations with China weighing more than the interest in defending European industry;
- argued that the compromise achieved so far was important for the access of SMEs to the measures and for ensuring that social and environmental aspects were integrated in the trade defence instruments. He still hoped that the amendment on allowing access for trade unions in the complaint procedure would be passed.

Speaking on behalf of the ECR group, Ms Cristiana MUSCARDINI (IT):

- stated that the revision of trade defence instruments was essential for businesses in order to face up to non competitive practices of other countries that go against WTO rules. This was not only demonstrated by cases like the Chinese one but also by the inability of the EU to take decisions (the blockage on rules of origin and on product safety were examples of this);
- believed that the Council had no intention to boost the economic recovery, so it was good that the Parliament was going to adopt its position but there were still many points that needed to be looked at. It was now up to the Council to act.

Speaking on behalf of the EUL/NGL group, Mr Helmut SCHOLZ (DE):

- recalled that all Member States as set out in Article 3 of the UN Charter had committed themselves to foster international co-operation in solving international problems and to respect human rights and basic rights. This commitment legally superseded all other international agreements. Further, the EU had committed itself to defend decent working conditions and the environment;

- in this context, argued that it was environmental and social dumping that today caused unfair trade in the world. Measures had to be taken against this, and his group had therefore proposed amendment 83 which would enable the Commission to act;
- stated that what was not needed were aggressive measures against the industrial policies of developing countries. The EU had in 2010 confirmed the right to sovereignty over raw materials, and his group insisted that it remain so. Protection against dumping yes but this Regulation should not become an instrument for opening markets and achieving low raw material prices, thus consolidating low wages and poverty in raw material producing countries.

Speaking on behalf of the EFD group, Mr William DARTMOUTH (UK):

- stated that all were against subsidised imports/dumping and that there had to be trade defence when trade counterparties declined to accept the principles that underpin free and open trade;
- however, argued that the handling of the Chinese solar panels case was not to be followed as an example. The Committee's report was in its essence giving greater scope, power and discretion to the Commission and its appointed trade officials. The EU was a protectionist construct and not credible on open trade. The way forward was a sense of proportionality and the way in which an independent UK would handle the problem.

Amongst other speakers, the following can be mentioned:

Mr Jarosław Leszek WAŁĘSA (EPP, PL):

- stated that having the highest energy prices in the world and heavy regulatory burdens were not compatible with a competitive economy that created jobs. Preferential access to the EU market should not be granted to countries that had much cheaper energy prices and did not impose any of the same regulatory burdens on their companies. The EU could not continue to have the most liberal trade defence regimes in the world;

- supported the report from the Committee as it represented a step in the right direction, aiming at readjusting the situation where EU producers faced various government-inspired distortions. He urged to reject all other amendments tabled and vote the report as is. He was also against referral back to the Committee in view of giving a mandate for trilogues.

Mr Vital MOREIRA (S&D, PT):

- underlined that the trade defence instruments were not protectionism but "trade proper". The aim should be to protect industry against dumping and subsidised outside competitors. The process of modernisation of the instruments should be used to strengthen fair competition. The EU trade defence instruments were currently some of the most liberal in the world and went beyond the WTO criteria;
- found that the Commission's proposal contained some positive points but that the Committee had improved it significantly. As concerns the guidelines, they risked watering down the progress made and there was a risk that interest of industry be damaged in order to cater for the interest of importers.

At the end of the debate, the Presidency (Deputy Prime Minister VENIZELOS) intervened upon invitation of the Parliament. His presence was originally not foreseen but he had accepted the request of the Parliament to sit in on the debate. The Deputy Prime Minister:

- stated that he had followed the debate carefully and would convey the observations made to the Council and hoped that action could be taken quickly to respond to the necessity to protect the European businesses and industry;
- underlined that the Council respected the institutional competences and the efforts of the Commission but that at the same time, and after having listened to the debate, he shared the concerns on supporting the SMEs and the industry. There was a serious competitiveness problem in Europe and a new productive model was needed. The old protectionist ways should not be followed but within the framework of the WTO all existing possibilities should be used in order not to put the European industry in a more disadvantageous position than its competitors and to better protect the consumers.

III. VOTE

The vote took place on 5 February 2014. The European Parliament adopted 78 amendments to the proposal for a Regulation.

All but five of the Committee's amendments (amendments 34, 37, 38, 62 and 63) were adopted. In addition, 13 other amendments were adopted (amendment 70 by the Greens/EFA group, amendments 75 - 79 by the EPP group, amendments 86 and 87 by the EUL/NGL group, amendments 90 - 92 and 94 by the S&D and Greens/EFA groups and amendment 93 by the S&D group). Some of the amendments were identical.

The amendments adopted are set out in the Annex.

The vote on the legislative resolution was postponed to a later session, thereby not closing the European Parliament's first reading and leaving open the possibility of reaching an agreement in first reading. The matter was then referred back to the Committee on International Trade, pursuant to Rule 57(2) of the European Parliament's Rules of Procedure.

Protection against dumped and subsidised imports from countries not members of the EU ***I

Amendments adopted by the European Parliament on 5 February 2014 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community (COM(2013)0192 – C7-0097/2013 – 2013/0103(COD))¹

(Ordinary legislative procedure: first reading)

Amendment 1

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Following the review, certain provisions of the Regulations should be amended in order to improve transparency and predictability, provide for effective measures to fight against retaliation, improve effectiveness and enforcement and optimise review practice. ***In addition, certain practices that in recent years have been applied in the context of anti-dumping and anti-subsidy investigations should be included in the Regulations.***

Amendment

(3) Following the review, certain provisions of the Regulations should be amended in order to improve transparency and predictability, provide for effective measures to fight against retaliation ***by third countries***, improve effectiveness and enforcement and optimise review practice.

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In order to improve transparency and predictability of anti-dumping and anti-subsidy investigations, the parties affected

Amendment

deleted

¹ This matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0053/2014).

by the imposition of provisional anti-dumping and countervailing measures, in particular importers, should be made aware of the impending imposition of such measures. The time given should correspond to the period between the submission of the draft implementing act to the anti-dumping committee established pursuant to Article 15 of Regulation (EC) No 1225/2009 and the anti-subsidy committee established pursuant to Article 25 of Regulation (EC) No 597/2009 and the adoption of that act by the Commission. This period is fixed in Article 3(3) of Regulation (EU) No 182/2011. Also, in investigations where it is not appropriate to impose provisional measures, it is desirable that parties are aware sufficiently in advance of such non-imposition.

Amendment 95

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) A short period of time in advance of the imposition of provisional measures should be allowed for exporters or producers to check the calculation of their individual dumping or subsidy margin. Calculation errors could then be corrected in advance of the imposition of measures.

deleted

Amendment 3

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) In order to ensure effective measures to fight against retaliation, Union producers should be able to rely on the Regulations without fear of retaliation by third parties. Existing provisions, under special circumstances, provide for the initiation of

*(6) In order to ensure effective measures to fight against retaliation, Union producers should be able to rely on the Regulations without fear of retaliation by third parties. Existing provisions, under special circumstances, **in particular where diverse***

an investigation without having received a complaint, where sufficient evidence of the existence of dumping, countervailable subsidies, injury and causal link exists. Such special circumstances should include threat of retaliation.

and fragmented sectors largely composed of small and medium-sized enterprises (SMEs) are concerned, provide for the initiation of an investigation without having received a complaint, where sufficient evidence of the existence of dumping, countervailable subsidies, injury and causal link exists. Such special circumstances should include threat of retaliation *from third countries*.

Amendment 4

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) When an investigation is not initiated by a complaint, *an obligation* should be *imposed on* Union producers to provide the necessary information in order for the investigation to proceed, in order to ensure that sufficient information is available for carrying out the investigation in case of such threats of retaliation.

Amendment

(7) When an investigation is not initiated by a complaint, *a request for cooperation* should be *made to* Union producers to provide the necessary information in order for the investigation to proceed, in order to ensure that sufficient information is available for carrying out the investigation in case of such threats of retaliation. *Small-sized enterprises and microenterprises should be exempt from that obligation in order to spare them from unreasonable administrative burden and costs.*

Amendment 5

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) In order to optimise the review practice, duties collected during the investigation should be reimbursed to importers, where measures are not prolonged after the conclusion of an expiry review investigation. This is appropriate given that the conditions required for the continuation of the measures have not been found to exist during the investigation period.

Amendment

deleted

Amendment 6

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Any document aimed at clarifying the established practices of the Commission with regard to the application of this Regulation (including the four draft guidelines on the selection of analogue country, on expiry reviews and the duration of measures, on the injury margin and on the Union interest) should be adopted by the Commission only after entry into force of this Regulation and proper consultation of the European Parliament and Council and should then fully reflect the content of this Regulation.

Amendment 7

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) The Union is not party to ILO Conventions, but its Member States are. For the time being, only "core" ILO Conventions have been ratified by all Union Member States. In order to keep the definition of sufficient level of social standards based on ILO Conventions listed in Annex Ia to Regulation (EU) No 1225/2009 up to date, the Commission will, by means of delegated acts, update that Annex, as soon as Union Member States will have ratified other ILO "priority" Conventions.

Amendment 8

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Diverse and fragmented sectors largely composed of SMEs have difficulties in acceding to trade defence proceedings due to the complexity of the procedures and the high costs related thereto. SMEs' access to the instrument should be facilitated by strengthening the role of the SME Help Desk, which should support SMEs in filing complaints and in reaching the necessary thresholds for investigations to be launched. Administrative procedures relating to trade defence proceedings should also be better adapted to SMEs' constraints.

Amendment 9

Proposal for a regulation
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) In anti-dumping cases, the duration of investigations should be limited to nine months and those investigations be concluded within 12 months of initiation of the proceedings. In anti-subsidy cases, the duration of investigations should be limited to nine months and those investigations should be concluded within 10 months of initiation of the proceedings. In any event, the provisional duties should be imposed only during a period commencing 60 days after the initiation of the proceedings until six months after the initiation of the proceedings.

Amendment 10

Proposal for a regulation
Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) Non-confidential elements of undertakings submitted to the

Commission should be better disclosed to the interested parties, the European Parliament and the Council. Consulting Union industry should become an obligation of the Commission before accepting any offer of undertaking.

Amendment 93

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) In making the Union interest assessment, the opportunity to provide comments should be given to all producers in the Union and not just those producers lodging the complaint.

Amendment

deleted

Amendment 11

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The annual report by the Commission to the European Parliament and the Council on its implementation of Regulation (EC No 1225/2009 and Regulation (EC) No 597/2009 allows a regular and timely monitoring of the Trade Defence Instruments as part of the establishment of a structured interinstitutional dialogue on this issue. The public release of that report, six months after presentation to the European Parliament and the Council, ensures the transparency of the Trade Defence Instruments for stakeholders and the public.

Amendment 12

Proposal for a regulation Recital 18 b (new)

Text proposed by the Commission

Amendment

(18b) The Commission should ensure greater transparency with regard to proceedings, internal procedures and outcomes of investigations, and all non-confidential files should be made accessible to interested parties through a web-based platform.

Amendment 13

Proposal for a regulation Recital 18 c (new)

Text proposed by the Commission

Amendment

(18c) The Commission should inform the European Parliament and the Council of the initiation of any investigations and of developments relating to those investigations on a regular basis.

Amendment 14

Proposal for a regulation Recital 18 d (new)

Text proposed by the Commission

Amendment

(18d) Where the number of producers in the Union is so large that resort must be made to sampling, the Commission should, when choosing a sample of producers, fully take into account the proportion of SMEs in the sample, in particular in the case of diverse and fragmented industry sectors largely composed of SMEs.

Amendment 92

Proposal for a regulation

Recital 18 e (new)

Text proposed by the Commission

Amendment

(18e) In order to improve the effectiveness of trade-defence instruments, trade unions should be allowed to submit written complaints jointly with the Union industry.

Amendment 15

Proposal for a regulation

Article 1 – point -1 (new)

Regulation (EC) No 1225/2009

Title

Present text

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European **Community**

Amendment

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European **Union**

(This amendment applies throughout Council Regulation (EC) No 1225/2009)

Amendment 16

Proposal for a regulation

Article 1 – point -1 a (new)

Regulation (EC) No 1225/2009

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Third countries increasingly interfere in trade with a view to benefitting domestic producers, for instance by imposing export taxes or operating dual pricing schemes. Such interferences create additional distortions of trade. As a consequence, Union

producers are not only harmed by dumping, but suffer, compared to producers from third countries engaged in such practices, additional distortions of trade. Differences in the level of labour and environmental standards can also result in additional distortions of trade. Therefore, the lesser duty rule should not apply in such cases, when the exporting country has an insufficient level of social and environmental standards. A sufficient level is defined by the ratification of core International Labour Organisation (ILO) Conventions and of Multilateral Environmental Agreements (MEAs) to which the Union is party. SMEs particularly suffer from unfair competition because their small size prevents them from adapting to it. Therefore, the lesser duty rule should not apply when the complaint has been presented on behalf of a sector largely composed of SMEs. The lesser duty rule should always apply, however, when structural raw material distortions are the result of a deliberate choice made by a least developed country to protect the public interest.

Amendment 17

Proposal for a regulation

Article 1 – point -1 b (new)

Regulation (EC) No 1225/2009

Article 1 – paragraph 1 – subparagraph 2 (new)

Text proposed by the Commission

Amendment

-1b. In Article 1(1), the following subparagraph is added:

"The use of any dumped product in connection with the exploration of the Continental Shelf or the Exclusive Economic Zone of a Member State, or the exploitation of its resources, shall be treated as an import under this Regulation and shall be charged to duty accordingly, when causing injury to the

Union industry."

Amendment 18

Proposal for a regulation

Article 1 – point -1 c (new)

Regulation (EC) No 1225/2009

Article 1 – paragraph 4 a

Text proposed by the Commission

Amendment

-1c. In Article 1, the following paragraph is added:

"4a. For the purpose of this Regulation, it shall be understood that a raw material is the input of a given product which has a significant impact on its cost of production."

Amendment 19

Proposal for a regulation

Article 1 – point -1 d (new)

Regulation (EC) No 1225/2009

Article 1 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

-1d. In Article 1, the following paragraph is added:

"4b. A raw material shall be considered to be subject to structural distortion when its price is not solely the result of a normal operation of market forces reflecting supply and demand. Such distortions are the outcome of interference from third countries, which includes, inter alia, export taxes, export restrictions and dual pricing schemes."

Amendments 70 and 86

Proposal for a regulation

Article 1 – point -1 e (new)

Regulation (EC) No 1225/2009

Article 2 – paragraph 7 – point a – subparagraph 2

Present text

An appropriate market economy third country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time-limits; where appropriate, a market economy third country which is subject to the same investigation shall be used.

Amendment

-1e. In Article 2(7)(a), the second subparagraph is replaced by the following:

"An appropriate market economy third country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. **The selected country shall also have a sufficient level of social and environmental standards, where sufficient levels are determined on the basis of ratification and effective implementation by the third country of the Multilateral Environmental Agreements, and protocols thereunder, the Union is party to at any point in time and of ILO Conventions listed in Annex Ia.** Account shall also be taken of time-limits; where appropriate, a market economy third country which is subject to the same investigation shall be used."

Amendments 87 and 90

Proposal for a regulation

Article 1 – point 1 a (new)

Regulation (EC) No 1225/2009

Article 5 – paragraph 1 - subparagraph 1

Present text

Except as provided for in paragraph 6, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of the **Community** industry.

Amendment

1a. In Article 5(1), the first subparagraph is replaced by the following:

'Except as provided for in paragraph 6, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of the **Union** industry. **Complaints may also be submitted jointly by the Union industry, or by any natural or legal person or any association not having legal personality acting on behalf**

thereof, and trade unions.'

Amendment 20

Proposal for a regulation

Article 1 – point 1 b (new)

Regulation (EC) No 1225/2009

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1b. In Article 5, the following paragraph is inserted:

"1a. The Commission shall facilitate access to the instrument for diverse and fragmented industry sectors, largely composed of small and medium-sized enterprises (SMEs), in the context of anti-dumping cases, through an SME Help Desk.

The SME Help Desk shall raise awareness of the instrument, provide information and explanations on cases, how to file a complaint and how to better present evidence of dumping and injury.

The SME Help Desk shall make available standard forms for statistics to be submitted for standing purposes and questionnaires.

After the initiation of an investigation, it shall inform SMEs and their relevant associations likely to be affected by the initiation of proceedings and the relevant deadlines for registering as an interested party.

It shall assist in addressing questions regarding the completion of questionnaires, where special attention shall be given to queries of SMEs as regards investigations initiated under Article 5(6). To the extent possible, it shall assist in reducing the burden caused by language barriers.

In the event that SMEs provide prima facie evidence of dumping, the SME Help Desk shall provide SMEs with information on the evolution of the volume and value of imports of the product concerned in accordance with Article 14(6).

It shall also provide guidance on additional methods of contact and liaison with the Hearing Officer and national customs authorities. The SME Help Desk shall also inform SMEs on the possibilities and conditions under which they can request a review of the measures and refund of the anti-dumping duties paid."

Amendment 21

Proposal for a regulation

Article 1 – point 1 c (new)

Regulation (EC) No 1225/2009

Article 5 – paragraph 4 – subparagraph 2 (new)

Text proposed by the Commission

Amendment

1c. In Article 5(4), the following subparagraph is added:

"In the case of diverse and fragmented industrial sectors, largely composed of small and-medium-sized enterprises, the Commission shall assist in reaching those thresholds through the support of the SME Help Desk."

Amendment 22

Proposal for a regulation

Article 1 – point 1 d (new)

Regulation (EC) No 1225/2009

Article 5 – paragraph 6

Present text

Amendment

1d. In Article 5, paragraph 6 is replaced by the following:

6. If in special circumstances, ***it is decided*** to initiate an investigation without having received a written complaint by or on behalf of the ***Community*** industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify such initiation.

"6. If in special circumstances, ***in particular where diverse and fragmented sectors largely composed of small and medium-sized enterprises are concerned, the Commission decides*** to initiate an investigation without having received a written complaint by or on behalf of the ***Union*** industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify such initiation."

Amendment 23

Proposal for a regulation

Article 1 – point 1 e (new)

Regulation (EC) No 1225/2009

Article 6 – paragraph 9

Text proposed by the Commission

9. For proceedings initiated pursuant to Article 5(9), an investigation shall, whenever possible, be concluded within ***one year***. In any event, such ***investigations*** shall in all cases be concluded within ***15 months*** of initiation, in accordance with the findings made pursuant to Article 8 for undertakings or the findings made pursuant to Article 9 for definitive action.

Amendment

1e. In Article 6, paragraph 9 is replaced by the following:

"9. For proceedings initiated pursuant to Article 5(9), an investigation shall be concluded within ***nine months***. In any event, such ***an investigation*** shall in all cases be concluded within ***one year*** of initiation, in accordance with the findings made pursuant to Article 8 for undertakings or the findings made pursuant to Article 9 for definitive action.

Investigation periods shall, whenever possible, especially in the case of diverse and fragmented sectors largely composed of SMEs, coincide with the financial year."

Amendment 24

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1225/2009

Article 6 – paragraph 10

Text proposed by the Commission

Union producers of the like product are ***obliged*** to cooperate in proceedings that have been initiated pursuant to Article 5(6).

Amendment

Union producers of the like product ***with the exception of small-sized and micro-sized Union producers*** are ***requested*** to cooperate in proceedings that have been initiated pursuant to Article 5(6).

Amendment 25

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1225/2009

Article 6 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

10a. The Commission shall ensure the best possible access to information to all interested parties by allowing for an information system whereby interested parties are notified when new non-confidential information is added to the investigation files. Non-confidential information shall also be made accessible through a web-based platform.

Amendment 26

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1225/2009

Article 6 – paragraph 10 b (new)

Text proposed by the Commission

Amendment

10b. The Commission shall safeguard the effective exercise of the procedural rights of the interested parties and shall ensure that proceedings are handled impartially, objectively and within a reasonable time period, through a Hearing Officer, where appropriate.

Amendment 27

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1225/2009

Article 6 – point 10 c (new)

Text proposed by the Commission

Amendment

10c. The Commission shall issue questionnaires used in investigations, in all official languages of the Union, upon request of interested parties.

Amendment 28

Proposal for a regulation

Article 1 – point 3 – point a

Regulation (EC) No 1225/2009

Article 7 – paragraph 1 – sentences 1 and 2

Present text

Amendment

1. Provisional duties may be imposed if proceedings have been initiated in accordance with Article 5, if a notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments in accordance with Article 5(10), if a provisional affirmative determination has been made of dumping and consequent injury to the Community industry, and if the Community interest calls for intervention to prevent such injury. The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than ***nine*** months from the initiation of the proceedings.

1. Provisional duties may be imposed if proceedings have been initiated in accordance with Article 5, if a notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments in accordance with Article 5(10), if a provisional affirmative determination has been made of dumping and consequent injury to the ***Union*** industry, and if the ***Union*** interest calls for intervention to prevent such injury. The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than ***six*** months from the initiation of the proceedings.

Amendment 29

Proposal for a regulation

Article 1 – point 3 – point a

Regulation (EC) No 1225/2009

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

(a) in paragraph 1, the following sentence is added:

deleted

"Provisional duties shall not be applied within a period of two weeks after the information is sent to interested parties under Article 19a. The provision of such information shall not prejudice any subsequent decision that may be taken by the Commission."

Amendment 30

Proposal for a regulation

Article 1 – point 3 – point b

Regulation (EC) No 1225/2009

Article 7 – paragraph 2

Text proposed by the Commission

Amendment

The amount of the provisional anti-dumping duty shall not exceed the margin of dumping as provisionally established. ***Unless structural raw material distortions*** were found to exist with regard to the product concerned in the exporting country, ***it should be less than the margin of dumping if such lesser duty would be adequate to remove the injury to the Union industry.***

The amount of the provisional anti-dumping duty shall not exceed the margin of dumping as provisionally established, ***but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Union industry.***

Such a lesser duty shall not apply in any of the following circumstances:

- (a) structural distortions or significant State interference regarding, inter alia, prices, costs and inputs, including for instance raw materials and energy, research and labour, outputs, sales and investments, currency exchange rate and fair trade finance conditions,*** were found to exist with regard to the product concerned in the exporting country;
- (b) the exporting country does not have a sufficient level of social and environmental standards, where sufficient levels are determined on the basis of the***

ratification and effective implementation by the third country of Multilateral Environmental Agreements, and protocols thereunder, to which the Union is party any point in time, and of ILO Conventions listed in Annex Ia;

(c) the complainant represents a diverse and fragmented industry, largely composed of SMEs;

(d) the investigation or a separate anti-subsidy investigation has established at least provisionally that the exporting country provides one or more subsidies to exporting producers of the product concerned.

However, such a lesser duty shall always be granted when structural raw materials distortions are found to exist with regard to the product concerned in the exporting country and such country is a least-developed country listed in Annex IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council.*

** Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008.*

Amendment 31

Proposal for a regulation

Article 1 – point 3 a (new)

Regulation (EC) No 1225/2009

Article 8 – paragraph 1

Present text

1. Upon condition that a provisional affirmative determination of dumping and injury has been made, the Commission

Amendment

3a. In Article 8, paragraph 1 is replaced by the following:

"1. Upon condition that a provisional affirmative determination of dumping and injury has been made, the Commission

may accept satisfactory voluntary undertaking offers submitted by any exporter to revise its prices or to cease exports at dumped prices, if, after specific consultation of the Advisory Committee, *it is satisfied that* the injurious effect of the dumping *is thereby eliminated*. In such a case and as long as such undertakings are in force, provisional duties imposed by the Commission in accordance with Article 7(1) or definitive duties imposed by the Council in accordance with Article 9(4) as the case may be shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings, as subsequently amended. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they should be less than the margin of dumping if such increases would be adequate to remove the injury to the *Community* industry.

may accept voluntary undertaking offers submitted by any exporter to revise its prices or to cease exports at dumped prices, after specific consultation of the Advisory Committee, *provided that such offers effectively eliminate* the injurious effect of the dumping. In such a case and as long as such undertakings are in force, provisional duties imposed by the Commission in accordance with Article 7(1) or definitive duties imposed by the Council in accordance with Article 9(4) as the case may be shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings, as subsequently amended. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they *shall* be less than the margin of dumping if such increases would be adequate to remove the injury to the *Union* industry, *unless the Commission, in the imposition of provisional or definitive duties, had decided that this lesser duty shall not be applied.*"

Amendment 32

Proposal for a regulation

Article 1 – point 3 b (new)

Regulation (EC) No 1225/2009

Article 8 – paragraph 4

Present text

4. Parties which offer an undertaking shall be required to provide a non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation.

Amendment

3b. In Article 8, paragraph 4 is replaced by the following:

"4. Parties which offer an undertaking shall be required to provide *a meaningful* non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation, *the European Parliament and the Council. The parties shall be requested to disclose as much information as possible regarding the content and nature of the undertaking with due regard to the*

protection of confidential information within the meaning of Article 19. Furthermore, before accepting any such an offer the Commission shall consult the Union industry with regard to the main features of the undertaking.

Amendment 33

Proposal for a regulation

Article 1 – point 4 – point b

Regulation (EC) No 1225/2009

Article 9 – paragraph 4 – last sentence

Text proposed by the Commission

The amount of the anti-dumping duty shall not exceed the margin of dumping established. *Unless structural raw material distortions* were found to exist with regard to the product concerned in the exporting country, *it shall be less than the margin of dumping if such lesser duty would be adequate to remove the injury to the Union industry.*

Amendment

The amount of the anti-dumping duty shall not exceed the margin of dumping established *but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Union industry.*

Such a lesser duty shall not apply in any of the following circumstances:

(a) structural distortions or significant State interferences regarding, inter alia, prices, costs and inputs, including for instance raw materials and energy, research and labour, outputs, sales and investments, currency exchange rate and fair trade finance conditions, were found to exist with regard to the product concerned in the exporting country;

(b) the exporting country does not have a sufficient level of social and environmental standards, where sufficient levels are determined on the basis of the ratification and effective implementation by the third country of Multilateral Environmental Agreements, and protocols thereunder, to which the Union is party any point in time, and of ILO Conventions listed in Annex Ia;

(c) the complainant represents a diverse

and fragmented industry, largely composed of SMEs;

(d) the investigation or a separate anti-subsidy investigation has established that the exporting country provides one or more subsidies to exporting producers of the product concerned.

However, such a lesser duty shall always be granted when structural raw materials distortions are found to exist with regard to the product concerned in the exporting country and that country is a least-developed country listed in Annex IV to Regulation (EU) No 978/2012.

Amendment 77/rev

Proposal for a regulation

Article 1 – point 5 – point -a (new)

Regulation (EC) No 1225/2009

Article 11 – paragraph 2 – subparagraph 2

Present text

An expiry review shall be initiated where the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury. Such likelihood may, for example, be indicated by evidence of continued dumping and injury or evidence that the removal of injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of further injurious dumping.

Amendment

(-a) in paragraph 2, the second subparagraph is replaced by the following:

An expiry review shall be initiated where the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury. Such likelihood may, for example, be indicated by evidence of continued dumping and injury or evidence that the removal of injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of further injurious dumping. *Such likelihood may also be indicated by continuing interference by the exporting country.*

Amendment 35

Proposal for a regulation

Article 1 – point 5 – point a

Regulation (EC) No 1225/2009

Article 11 – paragraph 5

Text proposed by the Commission

Amendment

(a) in paragraph 5, the following subparagraph is added:

deleted

"If following an investigation pursuant to paragraph 2, the measure expires, any duties collected from the date of the initiation of such investigation shall be repaid provided that this is requested from national customs authorities and granted by those authorities in accordance with the applicable Union customs legislation concerning repayment and remission of duty. Such repayment does not give rise to the payment of interest by the national customs authorities concerned."

Amendment 36

Proposal for a regulation

Article 1 – point 6 a (new)

Regulation (EC) No 1225/2009

Article 14 – paragraph 3

Present text

Amendment

3. Special provisions, in particular with regard to the common definition of the concept of origin, as contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, may be adopted pursuant to this Regulation.

6a. In Article 14, paragraph 3 is replaced by the following:

"3. Special provisions, in particular with regard to the common definition of the concept of origin, as contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ***or in accordance with Article 2 thereof***, may be adopted pursuant to this Regulation."

Amendment 79

Proposal for a regulation

Article 1 – point 6 b (new)

Regulation (EC) No 1225/2009

Article 14 – paragraph 5

Amendment

Present text

5. The Commission may, after *consultation of the Advisory Committee*, direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports *may* be made subject to registration following a request from the *Community* industry which contains sufficient evidence to justify such action. *Registration shall be introduced by regulation which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability.* Imports *shall not* be made subject to registration *for a period longer than nine months.*

(6b) In Article 14, paragraph 5 is replaced by the following:

"5. The Commission may, after *having informed the Member States in due time* direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports *shall* be made subject to registration following a request from the *Union* industry which contains sufficient evidence to justify such action. Imports *may also* be made subject to registration *on the Commission's own initiative.*

Imports shall be made subject to registration from the date of initiation of the investigation where the complaint of the Union industry contains a request for registration and sufficient evidence to justify such action.

Registration shall be introduced by regulation which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months."

Amendment 75

Proposal for a regulation

Article 1 – point 6 c (new)

Present text

6. Member States shall report to the Commission every month, on the import trade in products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation.

6c. In Article 14, paragraph 6 is replaced by the following:

"6. Member States shall report to the Commission every month, on the import trade in products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation. ***The Commission may, upon receiving a specific reasoned request from an interested party, and after receiving the opinion of the Committee referred to in Article 15(2) on it, decide to provide them with information concerning the volume and import values of those products.***"

Amendment 39

Proposal for a regulation

Article 1 – point 6 d (new)

Regulation (EC) 1225/2009

Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

6d. In Article 14, the following paragraph is added:

"7a. Whenever the Commission intends to adopt or publish any document aimed at clarifying the established practice of the Commission with regard to the application of this Regulation in any of its elements, the Commission, prior to the adoption or publication, shall consult the European Parliament and the Council, aiming at a consensus with a view to the approval of the given document. Any subsequent modification of such documents shall be subject to such procedural requirements. In any event, any of those documents shall be in full

conformity with the provisions of this Regulation. No such document shall broaden the discretion of the Commission, as interpreted by the Court of Justice of the European Union, in adopting measures."

Amendment 40

Proposal for a regulation

Article 1 – point 7

Regulation (EC) No 1225/2009

Article 17 – paragraph 1

Text proposed by the Commission

"1. In cases where the number of Union producers, exporters or importers, types of product or transactions is large, the investigation may be limited to a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection, or to the largest representative volume of production, sales or exports which can reasonably be investigated within the time available."

Amendment

"1. In cases where the number of Union producers, exporters or importers ***that cooperate in the investigation with their consent***, types of product or transactions is large, the investigation may be limited to a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection, or to the largest representative volume of production, sales or exports which can reasonably be investigated within the time available. ***In the case of diverse and fragmented industry sectors, largely composed of SMEs, the final selection of parties should, where possible, take into account their proportion of the sector concerned.***"

Amendment 41

Proposal for a regulation

Article 1 – point 8

Regulation (EC) No 1225/2009

Article 19 a – paragraph 1

Text proposed by the Commission

1. The Union producers, importers and exporters and their representative associations, and representatives of the exporting country, may request

Amendment

deleted

information on the planned imposition of provisional duties. Requests for such information shall be made in writing within the time limit prescribed in the notice of initiation. Such information shall be provided to those parties, at least two weeks before the expiry of the deadline mentioned in Article 7(1) for the imposition of provisional duties. Such information shall include:

- (a) a summary of the proposed duties for information purposes only, and*
- (b) details of the calculation of the dumping margin and the margin adequate to remove the injury to the Union industry, due account being taken of the need to respect the confidentiality obligations contained in Article 19. Parties shall have a period of three working days to provide comments on the accuracy of the calculations.*

Amendment 42

Proposal for a regulation

Article 1 – point 9

Regulation (EC) No 1225/2009

Article 21 – paragraph 2

Text proposed by the Commission

Amendment

9. Article 21(2) is replaced by the following:

deleted

‘2. In order to provide a sound basis on which the authorities can take account of all views and information in the decision as to whether or not the imposition of measures is in the Union interest, the Union producers, importers and their representative associations, representative users and representative consumer organisations may, within the time-limits specified in the notice of initiation of the anti-dumping investigation, make themselves known and provide information to the Commission. Such information, or appropriate summaries thereof, shall be made available to the

other parties specified in this Article, and they shall be entitled to respond to such information.'

Amendment 43

Proposal for a regulation

Article 1 – point 9 a (new)

Regulation (EC) No 1225/2009

Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

9c. In Article 22, the following paragraph shall be added:

"1a. As soon as all Member States have ratified new ILO Conventions, The Commission shall update Annex Ia accordingly, in conformity with the procedure set out in Article 290 TFEU."

Amendment 44

Proposal for a regulation

Article 1 – point 9 b (new)

Regulation (EC) No 1225/2009

Article 22 a (new)

Text proposed by the Commission

Amendment

9b. The following article is inserted:

"Article 22a

Report

1. In order to facilitate the monitoring of the implementation of the Regulation by the European Parliament and the Council, the Commission shall, with due regard to the protection of confidential information within the meaning of Article 19, present an annual report on the application and implementation of this Regulation to the European Parliament and to the Council, as a part of a trade defence instrument dialogue between the Commission, the European Parliament and the Council. The report shall include

information about the application of provisional and definitive measures, the termination of investigations without measures, undertakings, reinvestigations, reviews and verification visits, and the activities of the various bodies responsible for monitoring the implementation of this Regulation and fulfilment of the obligations arising therefrom. The report shall also cover the use of trade defence instruments by third countries targeting the Union, information on the recovery of the Union industry concerned by the measures imposed and appeals against the measures imposed. It shall include the activities of the Hearing Officer of the Commission's Directorate General for Trade and those of the SME Help Desk in relation to the application of this Regulation.

2. The European Parliament may, within one month of the Commission's presentation of the report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation. The report may also be subject to a resolution.

3. No later than six months after presenting the report to the European Parliament and to the Council, the Commission shall make the report public."

Amendment 45

Proposal for a regulation

Article 1 – point 9 c (new)

Regulation (EC) No 1225/2009

Annex I a (new)

Text proposed by the Commission

Amendment

9c. The following annex is added:

"Annex Ia

ILO Conventions referred to in Articles 7, 8, 9

1. Convention concerning Forced or Compulsory Labour, No 29 (1930)

2. Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948)

3. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949)

4. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951)

5. Convention concerning the Abolition of Forced Labour, No 105 (1957)

6. Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958)

7. Convention concerning Minimum Age for Admission to Employment, No 138 (1973)

8. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999)"

Amendment 46

Proposal for a regulation

Article 2 – point -1 (new)

Regulation (EC) No 597/2009

Title

Present text

Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European **Community**

Amendment

Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European **Union**

(This amendment applies throughout Council Regulation (EC) No 597/2009.)

Amendment 47

Proposal for a regulation

Article 2 – point -1 a (new)

Regulation (EC) No 597/2009

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Within the Union, countervailable subsidies are as a general rule prohibited pursuant to Article 107(1) TFEU. Therefore, countervailable subsidies granted by third countries are particularly distortive of trade. The amount of State aid authorised by the Commission has steadily been reduced over time. For the anti-subsidy instrument, the lesser duty rule should hence no longer be applied to imports from a country or countries engaged in subsidisation.

Amendment 48

Proposal for a regulation

Article 2 – point -1 b (new)

Regulation (EC) No 597/2009

Article 1 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

-1b. In Article 1(1), the following subparagraph shall be added:

"The use of any subsidised products in connection with the exploration of the Continental Shelf or the Exclusive Economic Zone of a Member State, or the exploitation of its resources, shall be treated as an import under this Regulation and shall be charged to duty accordingly, when it causes injury to the Union industry."

Amendment 91

Proposal for a regulation

Article 2 – point 1 a (new)

Regulation (EC) No 597/2009

Article 10 – paragraph 1 – subparagraph 1

Amendment

Present text

1. Except as provided for in paragraph 8, an investigation to determine the existence, degree and effect of any alleged subsidy shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of the **Community** industry.

1a. In Article 10(1), the first subparagraph is replaced by the following:

"1. Except as provided for in paragraph 8, an investigation to determine the existence, degree and effect of any alleged dumping shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of the **Union** industry. ***Complaints may also be submitted jointly by the Union industry, or by any natural or legal person or any association not having legal personality acting on behalf thereof, and trade unions.***"

Amendment 94

Proposal for a regulation

Article 2 – point 1 b (new)

Regulation (EC) No 597/2009

Article 10 – paragraph 6 – subparagraph 2 (new)

Amendment

Text proposed by the Commission

1b. In Article 10(6), the following subparagraph is added:

"In the case of diverse and fragmented industrial sectors, largely composed of small-and-medium-sized enterprises, the Commission shall assist in reaching these thresholds through the support of the SME Help Desk."

Amendment 49

Proposal for a regulation

Article 2 – point 1 c (new)

Regulation (EC) No 597/2009

Article 10 – paragraph 8

Present text

8. If, in special circumstances, **the Commission decides** to initiate an investigation without having received a written complaint by or on behalf of the **Community** industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of the existence of countervailable subsidies, injury and causal link, as described in paragraph 2, to justify such initiation.

Amendment

1c. In Article 10, paragraph 8 shall be replaced by the following:

"8. If in special circumstances, ***in particular where diverse and fragmented sectors largely composed of SMEs are concerned***, the Commission decides to initiate an investigation without having received a written complaint by or on behalf of the Union industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of the existence of countervailable subsidies, injury and a causal link, as described in paragraph 2, to justify such initiation."

Amendment 51

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 9

Present text

9. For proceedings initiated pursuant to Article 10(11), an investigation shall, whenever possible, be concluded within **one year**. In any event, such investigations shall in all cases be concluded within **13 months** of their initiation, in accordance with the findings made pursuant to Article 13 for undertakings or the findings made pursuant to Article 15 for definitive action.

Amendment

9. For proceedings initiated pursuant to Article 10(11), an investigation shall, whenever possible, be concluded within **nine months**. In any event, such investigations shall in all cases be concluded within **10 months** of their initiation, in accordance with the findings made pursuant to Article 13 for undertakings or the findings made pursuant to Article 15 for definitive action.
Investigation periods shall, whenever possible, especially in the case of diverse and fragmented sectors largely composed

of SMEs, coincide with the financial year.

Amendment 50

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 11

Text proposed by the Commission

11. Union producers of the like product are ***obliged*** to cooperate in proceedings that have been initiated pursuant to Article 10(8).

Amendment

11. Union producers of the like product ***with the exception of small-sized and micro-sized Union producers*** are ***requested*** to cooperate in proceedings that have been initiated pursuant to Article 10(8).

Amendment 52

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. The Commission shall facilitate the access to the instrument for diverse and fragmented sectors, largely composed of SMEs, in the context of anti-subsidy cases, through the SME Help Desk.

The SME Help Desk shall raise awareness of the instrument, provide information and explanations on cases, how to file a complaint and how to better present evidence of countervailable subsidies and injury. The SME Help Desk shall make available standard forms for statistics to be submitted for standing purposes and questionnaires.

After the initiation of an investigation, it shall inform SMEs and their relevant associations likely to be affected by the initiation of proceedings and the relevant deadlines for registering as an interested

party.

It shall assist addressing questions regarding the completion of questionnaires, where special attention shall be given to queries of SMEs as regards investigations initiated under Article 10(8). To the extent possible, it shall assist reducing the burden caused by language barriers.

In case SMEs provide prima facie evidence of countervailable subsidies, the SME Help Desk shall provide SMEs with information on the evolution of the volume and value of imports of the product concerned in accordance with Article 24(6).

It shall also provide guidance on additional methods of contact and liaison with the Hearing Officer and national customs authorities. The SME Help Desk shall also inform SMEs on the possibilities and conditions under which they could request a review of the measures and refund of the countervailable duties paid.

Amendment 53

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 11 b (new)

Text proposed by the Commission

Amendment

11b. The Commission shall ensure the best possible access to information to all interested parties by allowing for an information system whereby interested parties are notified when new non-confidential information is added to the investigation files. Non-confidential information shall also be made accessible through a web-based platform.

Amendment 54

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 11 c (new)

Text proposed by the Commission

Amendment

11c. The Commission shall safeguard the effective exercise of the procedural rights of the interested parties and shall ensure that proceedings are handled impartially, objectively and within a reasonable time period, through a Hearing Officer, where appropriate.

Amendment 55

Proposal for a regulation

Article 2 – point 2

Regulation (EC) No 597/2009

Article 11 – paragraph 11 d (new)

Text proposed by the Commission

Amendment

11d. The Commission shall issue questionnaires used in investigations, in all official languages of the Union upon request of interested parties.

Amendment 56

Proposal for a regulation

Article 2 – point 3 – point -a (new)

Regulation (EC) No 597/2009

Article 12 – paragraph 1 – subparagraph 2

Present text

Amendment

"The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than **nine** months from the initiation of the

(-a) the second subparagraph shall be replaced by the following:

"The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than **six** months from the initiation of the

proceedings."

proceedings."

Amendment 57

Proposal for a regulation

Article 2 – point 3 – point b

Regulation (EC) No 597/2009

Article 12 – paragraph 1 – subparagraph 3 a

Text proposed by the Commission

(b) the following subparagraph is added at the end:

‘Provisional duties shall not be applied within a period of two weeks after the information is sent to interested parties under Article 29b. The provision of such information shall not prejudice any subsequent decision that may be taken by the Commission.’

Amendment

deleted

Amendment 58

Proposal for a regulation

Article 2 – point 3 a (new)

Regulation (EC) No 597/2009

Article 13 – paragraph 1

Present text

1. Upon condition that a provisional affirmative determination of subsidisation and injury has been made, the Commission may accept **satisfactory** voluntary undertakings offers under which:

(a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or

(b) any exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies, **so** that the Commission, after specific consultation of

Amendment

3a. In Article 13, paragraph 1 is replaced by the following:

"1. Upon condition that a provisional affirmative determination of subsidisation and injury has been made, the Commission may accept voluntary undertakings offers under which:

(a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or

(b) any exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies, **provided** that the Commission, after specific

the Advisory Committee, *is satisfied* that the injurious effect of the subsidies is thereby eliminated.

In such a case and as long as such undertakings are in force, the provisional duties imposed by the Commission in accordance with Article 12(3) and the definitive duties imposed by the Council in accordance with Article 15(1) shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings and in any subsequent amendment of such decision.

Price increases under such undertakings shall not be higher than is necessary to offset the amount of countervailable subsidies, and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to the Community industry.

consultation of the Advisory Committee, *has determined* that the injurious effect of the subsidies is thereby effectively eliminated.

In such a case and as long as such undertakings are in force, the provisional duties imposed by the Commission in accordance with Article 12(3) and the definitive duties imposed by the Council in accordance with Article 15(1) shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings and in any subsequent amendment of such decision.

The lesser duty rule shall not apply to prices agreed under such undertakings in the framework of anti-subsidy proceedings."

Amendment 59

Proposal for a regulation

Article 2 – point 3 b (new)

Regulation (EC) No 597/2009

Article 13 – paragraph 4

Present text

4. Parties which offer an undertaking shall be required to provide a non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation.

Amendment

3b. In Article 13, paragraph 4 is replaced by the following:

"4. Parties which offer an undertaking shall be required to provide *a meaningful* non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation, *the European Parliament and the Council*. *The parties shall be requested to disclose as much information as possible regarding the content and nature of the undertaking with due regard to the protection of confidential information within the meaning of Article 29. Furthermore, before accepting any such*

offer the Commission shall consult the Union industry with regard to the main features of such undertaking."

Amendment 60

Proposal for a regulation

Article 2 – point 6 – point a

Regulation (EC) No 597/2009

Article 22 – paragraph 1 – subparagraph 7 a

Text proposed by the Commission

Amendment

(a) in paragraph 1 the following subparagraph is added:

deleted

'If following an investigation pursuant to Article 18, the measure expires, any duties collected after the date of the initiation of such investigation shall be reimbursed. The reimbursement should be requested from national customs authorities in accordance with the applicable Union customs legislation.'

Amendment 61

Proposal for a regulation

Article 2 – point 7 a (new)

Regulation (EC) No 597/2009

Article 24 – paragraph 3

Present text

Amendment

3. Special provisions, in particular with regard to the common definition of the concept of origin, as contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, may be adopted pursuant to this Regulation.

7a. In Article 24, paragraph 3 is replaced by the following:

"3. Special provisions, in particular with regard to the common definition of the concept of origin, as contained in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code *or in accordance with Article 2 thereof*, may be adopted pursuant to this Regulation."

Amendment 78

Proposal for a regulation

Present text

5. The Commission may, after ***consultation of the Advisory Committee***, direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration.

Imports ***may*** be made subject to registration following a request from the ***Community*** industry which contains sufficient evidence to justify such action.

Registration shall be introduced by regulation which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months.

7b. In Article 24, paragraph 5 is replaced by the following:

"5. The Commission may, after ***having informed the Member States in due time*** direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration.

Imports ***shall*** be made subject to registration following a request from the ***Union*** industry which contains sufficient evidence to justify such action. ***Imports may also be made subject to registration on the Commission's own initiative.***

Imports shall be made subject to registration from the date of initiation of the investigation where the complaint of the Union industry contains a request for registration and sufficient evidence to justify such action.

Registration shall be introduced by regulation which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months."

Amendment 76

Proposal for a regulation
Article 2 – point 7 c (new)

Present text

6. Member States shall report to the Commission every month, on the import trade in products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation.

7c. In Article 24, paragraph 6 is replaced by the following:

‘6. Member States shall report to the Commission every month, on the import trade in products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation. ***The Commission may, upon receiving a specific reasoned request from an interested party, and after receiving the opinion of the Committee referred to in Article 25(2) on it, decide to provide them with information concerning the volume and import values of those products.***’

Amendment 64

Proposal for a regulation

Article 2 – point 7 d (new)

Regulation (EC) No 597/2009

Article 24 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7d. In Article 24, the following paragraph is added:

"7a. Whenever the Commission intends to adopt or publish any document aimed at clarifying the established practice of the Commission with regard to the application of this Regulation in any of its elements, the Commission, prior to the adoption or publication, shall consult the European Parliament and the Council, aiming at a consensus with a view to the approval of the given document. Any subsequent modification of such documents shall be subject to such procedural requirements. In any event, any of these documents shall be in full

conformity with the provisions of this Regulation. No such document can broaden the discretion of the Commission, as interpreted by the Court of Justice of the European Union, in adopting measures."

Amendment 65

Proposal for a regulation

Article 2 – point 8

Regulation (EC) No 597/2009

Article 27 – paragraph 1

Text proposed by the Commission

8. In Article 27(1), the first subparagraph is replaced by the following:

"1. In cases where the number of Union producers, exporters or importers, types of product or transactions is large, the investigation may be limited to:

Amendment

8. In Article 27, paragraph 1 is replaced by the following:

"1. In cases where the number of Union producers, exporters or importers, *that cooperate in the investigation, or* types of product or transactions is large, the investigation may be limited to:

(a) a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection; or

(b) the largest representative volume of the production, sales or exports which can reasonably be investigated within the time available.

In the case of diverse and fragmented industry sectors, largely composed of SMEs, the final selection of parties shall, where possible, take into account their proportion of the sector concerned."

Amendment 66

Proposal for a regulation

Article 2 – point 9

Regulation (EC) No 597/2009

Article 29b

9. After Article 29, the following Article is inserted: **deleted**

"Article 29b

Information about provisional measures

1. The Union producers, importers and exporters and their representative associations, and the country of origin and/or export, may request information on the planned imposition of provisional duties. Requests for such information shall be made in writing within the time limit prescribed in the notice of initiation. Such information shall be provided to those parties, at least two weeks before the expiry of the deadline mentioned in Article 12(1) for the imposition of provisional duties.

Such information shall include:

(a) a summary of the proposed duties for information purposes only, and

(b) details of the calculation of the subsidy margin and the margin adequate to remove the injury to the Union industry, due account being taken of the need to respect the confidentiality obligations contained in Article 29. Parties shall have a period of three working days to provide comments on the accuracy of the calculations.

2. In cases where it is intended not to impose provisional duties but to continue the investigation, interested parties shall be informed of the non-imposition of duties two weeks before the expiry of the deadline mentioned in Article 12(1) for the imposition of provisional duties."

Amendment 67

Proposal for a regulation

Article 2 – point 10

Regulation (EC) No 597/2009

Article 31 – paragraph 2

Text proposed by the Commission

Amendment

10. Article 31(2) is replaced by the following:

deleted

"2. In order to provide a sound basis on which the authorities can take account of all views and information in the decision as to whether or not the imposition of measures is in the Union interest, the Union producers, importers and their representative associations, representative users and representative consumer organisations may, within the time-limits specified in the notice of initiation of the countervailing investigation, make themselves known and provide information to the Commission. Such information, or appropriate summaries thereof, shall be made available to the other parties specified in this paragraph, and they shall be entitled to respond to such information."

Amendment 68

Proposal for a regulation

Article 2 – point 10 a (new)

Regulation (EC) No 597/2009

Article 33 a (new)

Text proposed by the Commission

Amendment

10a. The following article is inserted:

"Article 33a

Report

1. In order to facilitate the monitoring of the implementation of the Regulation by the European Parliament and the Council, the Commission shall, with due regard to the protection of confidential information within the meaning of Article 19, present an annual report on the application and implementation of this Regulation to the European Parliament and to the Council, as a part of a trade defence instrument dialogue between the

Commission, the European Parliament and the Council. The report shall include information about the application of provisional and definitive measures, the termination of investigations without measures, undertakings, reinvestigations, reviews and verification visits, and the activities of the various bodies responsible for monitoring the implementation of this Regulation and fulfilment of the obligations arising therefrom. The report shall also cover the use of trade defence instruments by third countries targeting the Union, information on the recovery of the Union industry concerned by the measures imposed and appeals against the measures imposed. It shall include the activities of the Hearing Officer of the Commission's Directorate General for Trade and those of the SME Help Desk in relation to the application of this Regulation.

2. The European Parliament may, within one month of the Commission's presentation of the report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation. The report may also be subject to a resolution.

3. No later than six months after presenting the report to the European Parliament and to the Council, the Commission shall make the report public."

Amendment 69

Proposal for a regulation Article 3

Text proposed by the Commission

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

Amendment

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

It shall be consolidated with Regulation (EC) No 1225/2009 and Regulation (EC)

*No 597/2009 by ... **

** OJ: please insert date: three months
after the date of entry into force of this
Regulation.*