





# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed <a href="#">2014/0305(COD)</a>
Protection against subsidised imports from countries not members of the European Union. Codification  Amended by <a href="#">2013/0103(COD)</a> Amended by <a href="#">2016/0351(COD)</a>	
Subject 6.20.02 Export/import control, trade defence, trade barriers	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 <a href="#">HAUTALA Heidi</a> Shadow rapporteur  <a href="#">GERINGER DE OEDENBERG Lidia Joanna</a>	01/07/2015
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Education, Youth, Culture and Sport</a>	<a href="#">3471</a>	30/05/2016
European Commission	Commission DG	Commissioner	
	<a href="#">Legal Service</a>	JUNCKER Jean-Claude	

Key events			
27/10/2014	Legislative proposal published	<a href="#">COM(2014)0660</a>	Summary
12/11/2014	Committee referral announced in Parliament, 1st reading		
15/09/2015	Vote in committee, 1st reading		
22/09/2015	Committee report tabled for plenary, 1st reading	<a href="#">A8-0257/2015</a>	Summary
10/05/2016	Results of vote in Parliament		
10/05/2016	Decision by Parliament, 1st reading	<a href="#">T8-0206/2016</a>	Summary
30/05/2016	Act adopted by Council after Parliament's 1st reading		
08/06/2016	Final act signed		

08/06/2016	End of procedure in Parliament		
30/06/2016	Final act published in Official Journal		

## Technical information

Procedure reference	2014/0305(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
	Amended by <a href="#">2013/0103(COD)</a> Amended by <a href="#">2016/0351(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 207-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/01876

## Documentation gateway

Legislative proposal	<a href="#">COM(2014)0660</a>	27/10/2014	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES6688/2014</a>	10/12/2014	ESC	
Committee draft report	<a href="#">PE560.912</a>	01/07/2015	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0257/2015</a>	22/09/2015	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T8-0206/2016</a>	10/05/2016	EP	Summary
Draft final act	<a href="#">00048/2015/LEX</a>	08/06/2016	CSL	
Follow-up document	<a href="#">COM(2017)0598</a>	17/10/2017	EC	Summary
Follow-up document	SWD(2017)0342	17/10/2017	EC	
Follow-up document	<a href="#">COM(2019)0158</a> <a href="#">OJ L 771 20.03.2019, p. 0001</a>	27/03/2019	EC	Summary
Follow-up document	SWD(2019)0141	27/03/2019	EC	Summary
Follow-up document	<a href="#">COM(2020)0164</a>	30/04/2020	EC	
Follow-up document	SWD(2020)0071	30/04/2020	EC	
Follow-up document	<a href="#">COM(2021)0496</a>	30/08/2021	EC	
Follow-up document	SWD(2021)0234	30/08/2021	EC	
Follow-up document	<a href="#">COM(2022)0470</a>	19/09/2022	EC	
Follow-up document	SWD(2022)0294	19/09/2022	EC	
Follow-up document	<a href="#">COM(2023)0294</a>	07/06/2023	EC	
Follow-up document	<a href="#">COM(2023)0506</a>	06/09/2023	EC	
Follow-up document	SWD(2023)0287	06/09/2023	EC	

## Additional information

European Commission

[EUR-Lex](#)

## Final act

[Regulation 2016/1037](#)

[OJ L 176 30.06.2016, p. 0055](#) Summary

## Protection against subsidised imports from countries not members of the European Union. Codification

---

**PURPOSE:** to codify Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**CONTENT:** in the interests of clarity and rationality, the purpose of this proposal is to undertake a codification of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community.

Council Regulation (EC) No 597/2009 has been substantially amended. It is recalled that on 1 April 1987, the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Edinburgh European Council (December 1992) confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

The new Regulation will supersede the various acts incorporated in it; it fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

## Protection against subsidised imports from countries not members of the European Union. Codification

---

The Committee on Legal Affairs adopted the report by Heidi HAUTALA (Greens/EFA, FI) on the proposal for a regulation of the European Parliament and of the Council on protection against subsidised imports from countries not members of the European Union (codified text).

The committee recommended the European Parliament to adopt its position at first reading taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

According to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

The proposed regulation aims to transpose into EU law the provisions of the subsidies and countervailing measures (Subsidies Agreement) concluded within the World Trade Organization (WTO) to ensure a proper and transparent application of the anti-subsidy rules.

The regulation sets out in detail the conditions determining the existence of a subsidy, the principles governing the applicability of countervailing duties that may be imposed to offset any subsidy granted directly or indirectly, for the manufacture, production, export or transport of any product whose release for free circulation in the EU causes injury, and the criteria applicable to the calculation of the amount of countervailing subsidy.

## Protection against subsidised imports from countries not members of the European Union. Codification

---

The European Parliament adopted by 608 votes to 13, with 24 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on protection against subsidised imports from countries not members of the European Union (codified text).

Parliament adopted its position at first reading taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission who considered that the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

The purpose of this proposal is to undertake a codification of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community.

The proposed regulation aims to transpose into EU law the provisions of the subsidies and countervailing measures (Subsidies Agreement)

concluded within the World Trade Organization (WTO) to ensure a proper and transparent application of the anti-subsidy rules.

The regulation sets out in detail the conditions determining the existence of a subsidy, the principles governing the applicability of countervailing duties that may be imposed to offset any subsidy granted directly or indirectly, for the manufacture, production, export or transport of any product whose release for free circulation in the EU causes injury, and the criteria applicable to the calculation of the amount of countervailing subsidy.

Among the other measures, the codified Regulation seeks to:

- set out clear and detailed guidance as to the factors which may be relevant for the determination of whether the subsidised imports have caused material injury or are threatening to cause injury;
- define the term Union industry and to provide that parties related to exporters may be excluded from such an industry, and to define the term related;
- specify who may lodge a countervailing duty complaint, including the extent to which it should be supported by the Union industry, and the information on countervailable subsidies, injury and causation which such a complaint should contain. It is also expedient to specify the procedures for the rejection of complaints or the initiation of proceedings;
- specify the manner in which interested parties should be given notice of the information which the authorities require;
- set out the conditions under which provisional duties may be imposed; provisional countervailing duties shall be imposed for a maximum period of four months;
- set out procedures for accepting undertakings which eliminate or offset the countervailable subsidies and injury instead of imposing provisional or definitive duties;
- provide that the termination of cases should, irrespective of whether definitive measures are adopted or not, normally take place within 12 months, and in no case more than 13 months, of the initiation of the investigation.

## Protection against subsidised imports from countries not members of the European Union. Codification

---

**PURPOSE:** to establish EU rules on protection against subsidised imports from non-member countries and on the application of countervailing duty.

**LEGISLATIVE ACT:** Regulation (EU) 2016/1037 of the European Parliament and of the Council on protection against subsidised imports from countries not members of the European Union (codification).

**CONTENT:** in the interests of clarity and rationality, this Regulation codifies Council Regulation (EC) No 597/2009, which has been substantially amended.

The codified Regulation provides that a countervailing duty may be imposed to offset any subsidy granted, directly or indirectly, for the manufacture, production, export or transport of any product whose release for free circulation in the Union causes injury.

The Regulation sets out in detail the conditions determining the existence of a subsidy, the principles governing the applicability of countervailing duties (in particular whether the subsidy has been granted specifically), and the criteria applicable to the calculation of the amount of countervailing subsidy.

The Regulation transposes into EU law the provisions of the subsidies and countervailing measures (Subsidies Agreement) concluded within the World Trade Organization (WTO) to ensure a proper and transparent application of the anti-subsidy rules.

Amongst other measures, the Regulation:

- sets out clear and detailed guidance as to the factors which may be relevant for the determination of whether the subsidised imports have caused material injury or are threatening to cause injury. A determination of injury shall be based on positive evidence and shall involve an objective examination of: (a) the volume of the subsidised imports and the effect of the subsidised imports on prices in the Union market for like products; and (b) the consequent impact of those imports on the Union industry;
- specifies who may lodge a countervailing duty complaint, including the extent to which it should be supported by the Union industry;
- specifies the information required on countervailing subsidies, injury and a causal link between the allegedly subsidised imports and the alleged injury;
- specifies the procedures applicable for the rejection of complaints or the initiation of proceedings;
- specifies the manner in which interested parties should be given notice of the information which the authorities require;
- sets out the conditions under which provisional duties may be imposed; such duties may be imposed no earlier than 60 days from initiation and no later than nine months thereafter, and may in all cases be imposed by the Commission only for a four-month period;
- sets out procedures for accepting undertakings which eliminate or offset the countervailable subsidies and injury instead of imposing provisional or definitive duties;
- provides that the termination of cases should, irrespective of whether definitive measures are adopted or not, normally take place within 12 months, and in no case more than 13 months, of the initiation of the investigation;
- provides that investigations or proceedings should be terminated where the amount of the subsidy is de minimis or, particularly in the case of imports originating in developing countries, the volume of subsidised imports or the injury is negligible;
- provides that measures are to lapse after five years unless a review indicates that they should be maintained;
- provides for the possibility for the Commission to: (i) request Member States to supply, subject to confidentiality rules, information to be used for monitoring price undertakings and verifying the level of effectiveness of the measures in force; (ii) to carry out verification visits to check information submitted on countervailable subsidies and injury;

provides that an importer may request reimbursement of duties collected where it is shown that the amount of countervailable subsidies, on the basis of which duties were paid, has been either eliminated or reduced to a level which is below the level of the duty in force.

ENTRY INTO FORCE: 20.7.2016.

## Protection against subsidised imports from countries not members of the European Union. Codification

---

In accordance with the provisions of Regulation (EU) 2016/1036 and Regulation (EU) 2016/1037 of the European Parliament and of the Council, the Commission has presented its 35th annual report on the EU's anti-dumping, anti-subsidy and safeguard activities (2016).

Investigations and measures: 2016 saw a slight increase in the number of new investigations opened, against the backdrop of a prolonged crisis caused largely by industrial overcapacities in China, notably in, but not limited to, the steel sector.

In 2016, 15 new investigations were initiated (12 concerned the sector of steel and metals), while there were 9 re-openings of cases to implement judicial findings.

There was a slight decrease in the number of provisional and definitive measures imposed as well as the number of review investigations opened. At the same time, many of the investigations conducted, notably those in the steel sector, have been very complex and resource-intensive. This was the case for trade defence investigations into hot rolled coils, the expiry review on solar panels and the investigation concerning concrete reinforcing bars and rods.

Legislative measures: 2016 was marked by the preparation for, and adoption by the Commission of, a [legislative proposal](#) to change the EU's trade defence legislation in order to ensure that the EU would be equipped with sufficiently robust instruments to deal with the challenges faced by industry. The main elements of the proposal are:

- the introduction of a new anti-dumping methodology to capture market distortions linked to state intervention in third countries;
- strengthening the anti-subsidy instrument to increase the EU's ability to capture the full magnitude of subsidisation (by making it possible to address also subsidies which were identified only in the course of an investigation).

At the same time, the Commission actively engaged with the Council in relation to [the proposal](#) on the modernisation of trade defence instruments. These efforts culminated in the Council reaching a position at the end of 2016, allowing for the ordinary legislative procedure to progress.

Follow-up of measures: follow-up activities concerning measures in force were centred on four main areas: (1) to pre-empt fraud; (2) to monitor trade flows and market developments; (3) to improve the effectiveness with the appropriate instruments and (4) to react to irregular practices. These activities enabled the Commission - in cooperation with Member States - to pro-actively ensure the proper enforcement of trade defence measures in the European Union.

Market economy status (MES): during 2016, dedicated discussions regarding the MES process for China, Vietnam, Armenia, Kazakhstan and Mongolia were put on hold while the Commission considered making changes to the EU's anti-dumping legislation which could have an impact on the legislative framework applicable to these countries.

In December 2016, Belarus signalled its intention to engage in the MES process.

Information and dialogue with third countries: during 2016, the SME Helpdesk continued to deal with requests for information relating to the trade defence instruments.

The Commission organized its yearly training seminar on trade defence for officials from third countries (participants from Egypt, Tunisia, Turkey, Vietnam, Thailand, Japan and the WTO secretariat). In addition, there were a number of other bilateral contacts dedicated to discussing various trade defence topics with a number of third countries including China, Japan, Australia, Brazil, Mexico, Turkey, USA, Russia, Indonesia, Thailand, Canada, India, and Switzerland.

## Protection against subsidised imports from countries not members of the European Union. Codification

---

The Commission presents its 37th Annual Report on the EU's anti-dumping, anti-subsidy and safeguard activities and the use of trade defence instruments by third countries targeting the EU in 2018. This report gives two accounts of the EU's trade defence activity:

- exceptionally, going beyond the legal obligations, the report specifically takes stock of the major challenges, developments and achievements of the Juncker Commission in the area of trade defence;

- the report describes the EU's [anti-dumping](#), [anti-subsidy](#) and [safeguard activities](#) as well as the trade defence activity of third countries against the EU in 2018, in accordance with the requirements of the Anti-Dumping, Anti-Subsidy and basic Safeguard Regulations.

Overview and achievements of the Juncker Commission

The Commission notes that during the 60 years of history of the EU's trade defence instruments (TDI), there was probably no period that was more challenging than the one between 2014 and 2019. Global overcapacity in steel significantly increased the requests for trade defence measures.

Modernisation of trade defence instruments (TDI): new global market realities and a rising wave of unfair trade practices made modernisation of the rules a necessity. These entered into force on 8 June 2018 and made the following changes:

- introduction of an improved injury margin calculation, including a minimum profit of 6% as well as the possibility of reflecting the investments and R&D needs of the Union industry when calculating the injury margin;
- adoption of a shorter time-frame for the imposition of provisional measures these measures must now be adopted normally within seven months, but not later than within eight months (previously the timeframe was nine months);
- introduction of a pre-warning mechanism on the imposition of provisional anti-dumping and anti-subsidy measures. No other TDI jurisdiction operates such a system.
- EU SMEs will receive additional support when considering or being affected by TDI measures;
- for the first time, trade defence law allows the Commission to take into account social and environmental aspects in countries under scrutiny in a number of well-defined circumstances. This applies in particular in relation of the lesser duty rule when it comes to determining the injury margin.

New dumping calculation methodology and strengthened anti-subsidy instrument: amendments to the TDI legislation introduced a new methodology to calculate the normal value of goods subject to investigation, in case of significant distortions induced by the authorities of the exporting country. To allow stakeholders to make their case concerning countries where distortions exist, the Commission may publish reports on a country or sectoral distortions. The first such report concerned China, as it has been so far the country most subject to the EU's trade defence activity. New amendments have also strengthened the anti-subsidy instrument. It allows the Commission to better capture the full magnitude of subsidisation by making it possible to also address subsidies identified only in the course of an investigation. This change is important because foreign governments increasingly provide subsidies in a non-transparent manner and in violation of the World Trade Organisation (WTO) rules on the notification of subsidies.

Increased trade defence activity: global overcapacity in steel significantly increased the requests for trade defence measures. The Commission, by imposing 25 new TDI measures on steel during this period, made an important contribution to the viability and global competitiveness of the European steel industry. In addition:

- in the period of November 2014 - December 2018, 170 TDI cases were initiated and 95 measures were applied in order to restore a level playing field. Of the latter, 35 are new measures and the remainder are renewals or extensions of existing measures;
- EU TDI measures imposed since the beginning of the Commission's mandate effectively preserved more than 124 000 jobs. The steel sector benefited the most, with over 86 000 jobs protected. Overall, the EU measures that were in force at the end of 2018 effectively protected 320 000 direct industrial jobs from unfair competition;
- the Commission services intervened in around 70 foreign trade defence investigations. The number of trade defence measures targeting EU exporters now stands at 174, as compared to 162 in 2017. This upward trend is expected to continue over the next years.
- in 2018, 10 new investigations were initiated. Provisional duties were imposed in two proceedings. Four cases were concluded with the imposition of definitive duties, while eight investigations were concluded without measures.

#### Anti-subsidy activities

The Commission stepped up its fight against trade-distorting subsidies by third countries. In particular, subsidies contributing to overcapacity can prove highly distortive and often result in spill overs of excess production onto export markets. Such subsidisation often has de facto effects that are similar to export subsidies, the latter being prohibited under WTO rules. Between November 2014 and December 2018, the Commission opened 25 anti-subsidy investigations and imposed 12 anti-subsidy measures. In many cases, investigation findings pointed to relatively high levels of subsidisation, which were a rather rare occurrence in previous periods. To name but a few, countervailing duty (CVD) of significant amounts were imposed on hot rolled flat steel products from China (CVD of up to 35.9%) or tyres from China (CVD of up to 51.08%).

Due to the increasing importance of tackling the problem of subsidisation by third countries, the Commission released a special subsidies database aimed at providing more transparency about foreign subsidies schemes. The database is now published on the Commission's website and updated regularly. In that respect, it must be noted that WTO Members are legally obliged to notify their subsidies to the WTO. However, many WTO Members do not comply or comply only partially with this obligation. The EU has been systematically taking-up these instances of non-compliance in the WTO Anti-subsidy Committee. Moreover, it has commissioned studies that examine subsidisation by foreign governments, notably China. Those studies will be made publicly available so as to compensate for the lack of transparency of foreign subsidies schemes.

## Protection against subsidised imports from countries not members of the European Union.

### Codification

---

The Commission presents a staff working document accompanying its 37th annual report on the EU's anti-dumping, anti-subsidy and safeguard activities and the use of trade defence instruments by third countries targeting the EU in 2018. The document gives details of all trade defence activities during this period,

It also gives details of EU legislation in force, and amendments made in order to modernise the trade defence regime in 2018. The Commission notes that the EU's legislation contains a number of provisions aimed at ensuring a balanced application of the EU's anti-dumping and anti-subsidy rules on all interested parties. These provisions include the EU interest test and the lesser duty rule, which go beyond the Union's WTO obligations.

#### Overview of anti-dumping and anti-subsidy measures

In 2018, the EU initiated 10 new investigations, of which four concerned imported steel products. There were 14 decisions taken regarding new measures. The EU also initiated 17 investigations to review existing measures, with seven decisions taken to keep measures in place. Furthermore, the Commission initiated three safeguard investigations, one in the steel sector and two bilateral ones on rice with Cambodia and Myanmar.

The Commission notes the following:

- at the end of 2018, the EU had in force 93 definitive anti-dumping measures (which were extended in 27 cases) and 12 countervailing measures in force (which were extended in one case). Of the 12 anti-subsidy measures and one extension in place, half concerned imports from China (6) whereas India was subject to four measures, USA to two measures and Turkey to one measure;
- in the five-year period from 2014 to 2018, 66 new investigations were initiated on imports from 22 countries. The sectors concerned by the investigations included 'iron and steel', 'chemical and allied industries', the 'mechanical engineering' sector and the 'wood and paper' sector;
- the breakdown of the countries concerned by initiations during the period from 2014 to 2018 include China (24 investigations), Russia (7), India and Turkey (5), Brazil, Korea (3 each), Taiwan, Ukraine and USA (2 each), Argentina, Belarus, Bosnia and Herzegovina, Egypt, Georgia, Indonesia, Iran, Japan, North Macedonia, Malaysia, Mexico, Serbia, Trinidad and Tobago (1 each);
- reviews continue to represent a major part of the work of the Commission's TDI services. In 2018, 24 reviews were initiated. These comprised 17 expiry reviews, three interim reviews, one anti-absorption investigation and three re-openings. 7 expiry reviews were concluded with confirmation of the duties for a further period of five years;
- in 2018, eight new anti-dumping and two new anti-subsidy investigations were initiated. The anti-dumping investigations involved four different products from seven different countries. No country stood out in terms of number of these initiations. The anti-subsidy investigations both concerned biodiesel-producing countries;
- during 2018, definitive duties were imposed in three anti-dumping investigations and in one anti-subsidy investigation. All involved cases from China, regarding cast iron articles, corrosion resistant steels, and new and retreaded tyres for buses or lorries.

#### Activities by third countries targeting the EU

In 2018, the main users of the trade defence instruments against EU exports were the US with 33 measures in force, India with 21, China with 18, Brazil with 16, Turkey with 14, and Australia with 10 measures in force.

#### World Trade Organisation

The document notes that anti-dumping, anti-subsidy and safeguards measures are among the most common subject matters in WTO dispute settlement. In 2018, the EU participated actively in a number of WTO dispute settlement proceedings as a third party.