

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed 2014/0309(COD)
Protection against dumped imports from countries not members of the European Union. Codification Amended by 2013/0103(COD) Amended by 2016/0351(COD)	
Subject 6.20.02 Export/import control, trade defence, trade barriers	

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

Key events			
28/10/2014	Legislative proposal published	COM(2014)0667	Summary
28/01/2015	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	A8-0256/2015	Summary
10/05/2016	Results of vote in Parliament		
10/05/2016	Decision by Parliament, 1st reading		
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	2014/0309(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
	Amended by 2013/0103(COD) Amended by 2016/0351(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 207-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/01895

Documentation gateway

Legislative proposal	COM(2014)0667	28/10/2014	EC	Summary
Committee draft report	PE560.915	01/07/2015	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0256/2015	22/09/2015	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T8-0207/2016	10/05/2016	EP	Summary
Draft final act	00047/2015/LEX	08/06/2016	CSL	
Follow-up document	COM(2017)0598	17/10/2017	EC	Summary
Follow-up document	SWD(2017)0342	17/10/2017	EC	
Follow-up document	SWD(2017)0483	19/12/2017	EC	
Follow-up document	SWD(2019)0141	27/03/2019	EC	Summary
Follow-up document	COM(2020)0164	30/04/2020	EC	
Follow-up document	SWD(2020)0071	30/04/2020	EC	
Follow-up document	COM(2021)0496	30/08/2021	EC	
Follow-up document	SWD(2021)0234	30/08/2021	EC	
Follow-up document	COM(2022)0470	19/09/2022	EC	
Follow-up document	SWD(2022)0294	19/09/2022	EC	
Follow-up document	COM(2023)0294	07/06/2023	EC	
Follow-up document	COM(2023)0506	06/09/2023	EC	
Follow-up document	SWD(2023)0287	06/09/2023	EC	

Additional information

Final act

[Regulation 2016/1036](#)

[OJ L 176 30.06.2016, p. 0021](#) Summary

Delegated acts

[2020/2676\(DEA\)](#)

Examination of delegated act

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

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

Council Regulation (EC) No 1225/2009 has been substantially amended several times. 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 dumped 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 dumped 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 anti-dumping rules contained in the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994. It contains detailed rules, relating in particular to the calculation of dumping, procedures for initiating and pursuing an investigation, including the establishment and treatment of the facts, the imposition of provisional measures, the imposition and collection of anti-dumping duties, the duration and review of anti-dumping measures and the public disclosure of information relating to anti-dumping investigations.

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

The European Parliament adopted by 621 votes to 12, with 24 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on protection against dumped imports from countries not members of the European Union (codified text).

Parliament adopted its position at first reading, unamended, 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 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

The proposed regulation aims to transpose into EU law the anti-dumping rules contained in the Agreement on Implementation of Article VI of

the General Agreement on Tariffs and Trade 1994. It contains detailed rules, relating in particular to the calculation of dumping, procedures for initiating and pursuing an investigation, including the establishment and treatment of the facts, the imposition of provisional measures, the imposition and collection of anti-dumping duties, the duration and review of anti-dumping measures and the public disclosure of information relating to anti-dumping investigations.

Among the other measures, the codified Regulation seeks to:

- set out clear and detailed rules on the calculation of the normal value. In particular, such value should in all cases be based on representative sales in the ordinary course of trade in the exporting country;
- define the export price and to enumerate the adjustments which should be made in those cases where a reconstruction of that price from the first open-market price is deemed necessary;
- 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 an anti-dumping complaint, including the extent to which it should be supported by the Union industry, and the information on dumping, injury and causation which such a complaint should contain;
- 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, including conditions whereby provisional duties may be imposed no earlier than 60 days from initiation and no later than nine months thereafter;
- provide that such duties may in all cases be imposed by the Commission, either directly for a nine-month period or in two stages of six and three months;
- set out procedures for accepting undertakings which eliminate dumping 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 15 months, of the initiation of the investigation.

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

PURPOSE: to codify Council Regulation (EC) n°1225/2009 on protection against dumped imports from countries not members of the European Community.

LEGISLATIVE ACT: Regulation (EU) 2016/1036 of the European Parliament and of the Council on protection against dumped imports from countries not members of the European Union (codification).

CONTENT: in the interests of clarity and rationality, the Regulation codifies Council Regulation (EC) n° 1225/2009, which has been substantially amended several times.

The Regulation transposes into EU law the rules contained in the 1994 Anti-Dumping Agreement, annexed to the Agreement establishing the World Trade Organisation. These rules relate in particular to the calculation of dumping, procedures for initiating and pursuing an investigation, including the establishment and treatment of the facts, the imposition of provisional measures, the imposition and collection of anti-dumping duties, the duration and review of anti-dumping measures and the public disclosure of information relating to anti-dumping investigations.

The Regulations sets out the principle that an anti-dumping duty may be imposed on any dumped product whose release for free circulation in the Union causes injury.

A product is to be considered as being dumped if its export price to the Union is less than a comparable price for a like product, in the ordinary course of trade, as established for the exporting country.

Amongst other measures, the new codified Regulation:

- sets out clear and detailed rules on the calculation of the normal value for the purposes of determining dumping. In particular, such value should in all cases be based on representative sales in the ordinary course of trade in the exporting country;
- sets out the factors which may affect prices and price comparability and to set out specific rules as to when and how the adjustments should be made;
- sets out detailed guidance as to the factors which may be relevant for the determination of whether the dumped 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 dumped imports and the effect of the dumped imports on prices in the Union market for like products; and (b) the consequent impact of those imports on the Union industry.
- defines the term Union industry and provides that parties related to exporters may be excluded from such an industry;
- specifies rules on who may lodge an anti-dumping complaint, including the extent to which it should be supported by the Union industry, and the information on dumping, injury and causation which such a complaint should contain;
- establishes the procedures for the rejection of complaints or the initiation of proceedings;
- sets out rules on 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 in all cases be imposed by the Commission, either directly for a nine-month period or in two stages of six and three months;
- specifies procedures for accepting undertakings which eliminate dumping and injury instead of imposing provisional or definitive duties;
- sets out the rules and procedures to be followed during investigations by the Commission at EU level; 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 15 months, of the initiation of the investigation;
- provides for sampling in cases where the number of parties or transactions is large in order to permit completion of investigations within the appointed time limits.
- provides for verification visits to check information submitted on dumping and injury;
- stipulates that an importer may request reimbursement of duties collected where it is shown that the dumping margin, on the basis of which duties were paid, has been eliminated, or reduced to a level which is below the level of the duty in force.

ENTRY INTO FORCE: 20.7.2016.

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

Codification

This is the 35th annual report of the European Union's anti-dumping, anti-subsidy and safeguard activities during 2016.

In general, at the end of 2016, the EU had 90 definitive anti-dumping (AD) measures and 12 definitive anti-subsidy (AS) measures in force. The number of measures in force has shown a slight increase (4%) over the previous year while the number of ongoing investigations (20) at the end of the year corresponded to the end of 2015.

Overall in 2016:

- 0.27% of total imports into the EU were affected by AD or AS measures;
- 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;
- 13 expiry review investigations were initiated and 5 expiry reviews were concluded with a confirmation of the duty for a further period of 5 years;
- 1 circumvention investigation (the possibility of investigations being re-opened in circumstances where evidence is brought to show that measures are being circumvented) was initiated. There were 6 anti-circumvention investigations concluded with extension of the measures. The most important one related to the circumvention of measures on imports of solar modules and cells from China by transshipment via Malaysia and Taiwan;
- 42 new refund requests were submitted (importers may request the reimbursement of the relevant collected duties where it is shown that the dumping/subsidy margin has been eliminated or reduced to a level below that of the duty in force).

Conclusion: 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.

Given that the level of activity in antidumping investigations is complaint-driven, the number of cases reflects the number of complaints received from industry which contained sufficient evidence from EU industry to support allegations of injurious dumping or subsidies. 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. As was the case with previous years, no safeguard action was taken by the EU.

Moreover, 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 proposal is under the ordinary legislative procedure.

Protection against dumped 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.

Enforcement of anti-dumping/countervailing measures

The report notes that globalisation of trade led to greater possibilities for circumventing or otherwise reducing the effectiveness of anti-dumping and countervailing measures. To address this problem, throughout 2018 the TDI services continued their follow-up activities aimed at ensuring that measures were effectively enforced. In the framework of an integrated approach measures were considered in all their forms - duties and undertakings and synergy was sought between the TDI services and enforcement-oriented services (OLAF, DG Taxud and customs authorities in Member States).