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

2013/0103(COD) - 05/02/2014 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments to 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.

The matter was referred back to the committee responsible for reconsideration. The vote was postponed to a later date.

Scope: Parliament considered that 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.

It added that 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.

Definition: the text clarified the notion of a raw material in relation to the concept of structural distortion. Parliament considered that 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.

Lesser duty rule not applicable in certain cases: the lesser duty rule shall not apply in anti-dumping cases when it is established that the exporting country engages in practices that significantly distort the regular course of trade, when the exporting country has an insufficient level of social and environmental standards or when complainants are SMEs.

The sufficient levels of social and environmental standards should be 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 which are listed in Annex Ia.

The lesser duty rule shall always apply, however, when structural raw material distortions are the result of a deliberate choice made by a least developed country to protect its public interest and legitimate development goals.

Powers of the Commission and consultation of Parliament: Parliament added that any document aimed at clarifying the established practices of the Commission with regard to the application of the 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 the Regulation and proper consultation of the European Parliament and Council and should then fully reflect the content of the Regulation.

Reimbursement of duties collected under expiry reviews: the Commission proposed to reimburse duties collected under expiry reviews, if proven that dumping or subsidisation has been terminated, claiming that it would ensure effectiveness. However, Parliament said this was not desirable and deleted the provision in the interests of balance.

Registration: to mitigate the risk of stockpiling, registration of imports ought to take place following the submission of any justified request, and from the date of initiation when justified by the complaint. The Commission should also have the possibility of ordering registration on its own initiative.

SME Help Desk: Parliament felt that SMEs access to the instrument should be facilitated by establishing the SME Help Desk, which would raise awareness of the instrument.

Time limits:

- 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.

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.

Undertakings and non-confidential information: parties that 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 should 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. Furthermore, before accepting any such an offer the Commission should consult the Union industry with regard to the main features of the undertaking.

The Commission should 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.

Lastly, an amendment stated that the Commission may, upon receiving a specific reasoned request from an interested party, decide to provide them with information concerning the volume and import values of those products.

Report: the Commission shall present an annual report on the application and implementation of the Regulation 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 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.