Protection against dumped imports from countries not members of the European Community

2012/0019(COD) - 07/02/2012 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 1225/2009 in order to implement the recommendations of the Dispute Settlement Body of the World Trade Organisation

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

BACKGROUND: on 28 July 2011, the Dispute Settlement Body of the World Trade Organisation ('DSB') adopted the Appellate Body Report and the Panel Report as modified by the Appellate Body Report in the case ‘European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China' (‘Reports’).

In the Reports, it was found that Article 9(5) of Council Regulation (EC) No 1225/2009 ('the Basic Anti-Dumping Regulation') was inconsistent with Articles 6.10, 9.2 and 18.4 of the WTO Anti-Dumping Agreement and Article XVI:4 of the WTO Agreement.

Article 9(5) of the Basic Anti-Dumping Regulation provides that individual exporting producers in non-market economy countries which do not receive market economy treatment pursuant to Article 2(7)(c) of the Basic Anti-Dumping Regulation will be subject to a countrywide duty rate unless such exporters can demonstrate that they meet the conditions for individual treatment laid out in Article 9(5) of the Basic Anti-Dumping Regulation.

On 18 August 2011 the European Union notified the DSB that it intends to implement the recommendations and rulings of the DSB in this dispute in a manner that respects its WTO obligations.

On 19 January 2012 the European Union and China agreed that the reasonable period of time for implementing the DSB recommendations and rulings would be 14 months and two weeks from the date the DSB adopted the Reports. The reasonable period of time will therefore expire on 12 October 2012.

The purpose of this legislative proposal is to implement the DSB recommendations and rulings on Article 9(5) of the Basic Anti-Dumping Regulation.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 207 of the Treaty on the Functioning of the EU.

CONTENT: the proposal provides that Article 9(5) of the Regulation will be amended to state that an anti-dumping duty will be imposed in the appropriate amounts in each case, on a non-discriminatory basis on imports of a product from all sources found to be dumped and causing injury, except for imports from those sources from which undertakings under the terms of the Regulation have been accepted.

The Regulation imposing anti-dumping measures shall specify the duty for each supplier or, if that is impracticable, the supplying country concerned. Suppliers which are legally distinct from other suppliers or which are legally distinct from the State may nevertheless be considered as a single entity for the purpose of specifying the duty. Account may be taken of factors such as the existence of structural or

corporate links between the suppliers and the State or between suppliers, the control or material influence by the State in respect of pricing and output, or the economic structure of the supplying country.

BUDGETARY IMPLICATIONS: there are no implications for the EU budget.