

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

2014/0305(COD) - 08/06/2016 - Final act

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.