

# Protection against dumped and subsidised imports from countries not members of the EU

2016/0351(COD) - 27/06/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Salvatore CICU (EPP, IT) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union.

The committee recommended that the position of the European Parliament adopted at first reading in accordance with the ordinary legislative procedure should amend the Commission proposal as follows:

**Determination of the normal value in the event of market distortions (basic anti-dumping Regulation):** Members stated that normal value in the presence of market distortions shall be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks for **each and every factor of production**.

If an exporting producer from a country where one or more significant distortions exist clearly **demonstrates that it is not directly or indirectly affected by any significant distortion** and that its costs of one or more of its individual factors of production are not distorted, as assessed pursuant to the third subparagraph, those costs shall be used in the construction of its normal value.

The absence of distortion of an exporting producer's costs of a given factor of production and the reliability thereof shall be **assessed**, *inter alia*, by reference to the quantities involved, their proportion in relation to the total costs of that factor of production, and actual use in production.

**Criteria and factors to be taken into account:** Members considered that there is a significant market distortion when the declared prices or costs, including the cost of raw materials, energy and other factors of production, are not the result of free market forces as they are affected by government intervention or in case of non-compliance:

- the fundamental Conventions of the **International Labour Organization** (ILO) listed in Annex I to the Regulation (in particular the Conventions on forced labour, freedom of association, collective bargaining rights, equal remuneration for men and women);
- **multilateral environmental agreements** to which the Union is a party;
- the OECD conventions in the field of **taxation**.

When assessing the existence of **significant distortions** regard should be had, *inter alia*, to the potential impact of the following:

- **government influence**, whether direct or indirect, over the allocation of resources and decisions and enterprises;
- the lack of or discriminatory application or inadequate enforcement of a transparent and effective set of laws that ensure the respect of **property rights** and the operation of a functioning bankruptcy regime;
- **wage rates** are not the result of free bargaining between labour and management;
- the absence of a transparent set of laws produces **discriminatory effects** with regard to joint ventures and foreign investments;

- **access to finance** granted by institutions implementing public policy objectives, including by sectorial subsidies, or the existence of an oligopoly or monopoly in factors of production.

**Report and conclusions:** the Commission services would be required to draw up a detailed report describing the particular situation relating to all these criteria in a given country or sector. The Commission should take account of the economic and commercial particularities of **SMEs** and assist them in the use of the reports.

**On the request of the European Parliament**, of a Member State or on the Commission's own initiative when circumstances in a specific country or sector have changed, the Commission shall initiate or update the report. In the absence of a report, the Commission shall use any available information or data to establish the existence of significant distortions.

The Commission shall **make a definitive determination on the existence of one or more significant distortions** in the exporting country and disclose it to the parties within **60 days** following the initiation of the investigation. A determination that significant distortions exist in a given country or sector should remain in effect until revoked, and such revocation should take place only if sufficient evidence has conclusively shown that that country or sector is no longer affected by significant distortions.