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

2013/0103(COD) - 30/05/2018 - Final act

PURPOSE: to update and modernise EU legislation on trade defence instruments to make them more predictable, transparent and accessible, in particular for small and medium-sized enterprises (SMEs).

LEGISLATIVE ACT: Regulation (EU) 2018/825 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.

CONTENT: the Regulation amends the existing legal framework, namely Regulation (EU) 2016/1036 and Regulation (EU) 2016/1037, which allows higher tariffs to be imposed on dumped or subsidised imports in order to improve the protection of EU producers from damage caused by unfair competition.

Transparency and predictability of provisional anti-dumping and anti-subsidy measures: the Regulation includes provisions to increase the transparency and predictability of provisional anti-dumping and anti-subsidy measures. It also includes a pre-disclosure period of three weeks after the information is made public during which provisional duties will not be applied, as well as additional safety nets related to stockpiling.

Initiation of the procedure: 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, or be supported by trade unions. The Commission shall facilitate access to the trade defence instrument for diverse and fragmented industry sectors, largely composed of small and medium-sized enterprises (SME) through a dedicated SME Helpdesk.
Access to information: the Union producers, trade unions, importers and exporters and their representative associations, users and consumer organisations, which have made themselves known, as well as the representatives of the exporting country, may, upon written request, **inspect all information made available** by any party to an investigation, as distinct from internal documents prepared by the authorities of the Union or its Member States, which is relevant to the presentation of their cases and not confidential and is used in the investigation.

Where an investigation is not initiated by a complaint, the Commission should request Union producers to provide the information necessary for the investigation to proceed, in order to ensure that sufficient information is available for carrying out the investigation in case of threats of retaliation by third countries.

Investigation period: the Regulation reduces the normal investigation period to a period of **7 months**, with a maximum period of 8 months. Definitive duties shall have to be imposed within **14 months**.

Raw materials: the Regulation enables higher duties to be imposed where there are raw material distortions and where these raw materials, including energy, **account individually for more than 17% of receipts**. This would allow for the level of duties imposed under the ‘lesser duty rule’ to be adapted if it is in the interest of the EU. The imposition of higher duties will include a **target profit set at a minimum of 6%.**

Social and environmental standards shall be taken into account when establishing the injury elimination margin.

Refund of duties: the Regulation guarantees the possibility of a refund for operators. If the measures are repealed, the excess duties collected during the review investigations will be refunded to the importers.

Continental shelf of a Member State or exclusive economic zone: a countervailing duty may also be imposed on any subsidised product brought in significant quantities to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS, where this would cause injury to the Union industry.

ENTRY INTO FORCE: 8.6.2018.