Protection against illicit commercial practices, Uruguay round

1994/0233(CNS) - 22/12/1994 - Final act

The Council adopted Regulation (EC) No 3286/94, which seeks to amend Regulation (EEC) No 2641/84 and (EC) No 522/94 relating to the protection of the Community against illicit trading practices. The Regulation aims to strengthen the link between the Community instrument for trade protection and the mechanism for settling disagreements arising from the WTO Agreement, as defined under the negotiations of the Uruguay Round. The amendments relate in particular to problems experienced by Community exporters on foreign markets as a result of the illicit trading practices of third countries. The Regulation defines the following: - "unfavourable trade effect": effect caused (or likely to be caused) by an obstacle to trade in products or services by Community enterprises on the market of a third country, which has an impact on the economy of the Community, - "injury": major injury caused to a Community industry on the EU market by an obstacle to trade, - "exercise of Community rights": international trading rights which the Community can cite as a means for responding to illicit trading practices, and which are essentially trade rules enacted under the WTO Agreement. As regards complaints, the Regulation provides for 3 types of recourse: - complaint on behalf of a Community industry: the right of a Community industry which considers that it has suffered a major injury as a result of obstacles to trade affecting the Community market; - complaint on behalf of Community enterprises: the right of Community enterprises to lodge a complaint when they have suffered "unfavourable trade effects" due to obstacles to trade affecting the market of a third country. In this case the complaint is only admissible if the obstacle is covered by international initiative. - submission by a Member State of a case before the courts: general right which Member States have to lodge a complaint (including cases involving "unfavourable trade effects") resulting from obstacles to trade which affect either the Community market or the market of third countries. The time limit given to the Commission to bring a complaint is 45 days, save for specific procedures. Amendments have also been introduced in respect of the arrangements for proof of injury, the termination or suspension of a procedure (in particular by the conclusion of an agreement with the third country concerned) and the general provisions in respect of comitology. The decisions taken by the Commission following the lodging of a complaint are to apply at the end of a period of 30 days after the submission of the complaint. The Regulation comes into force on 01.01.1995 and shall be applicable to all procedures commencing after this date.