## Basic information

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|---|---|
| **2011/0153(COD)**<br>COD - Ordinary legislative procedure (ex-codecision procedure)<br>Regulation | Procedure completed |
| Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)<br>**Subject**<br>6.20 Common commercial policy in general<br>8.50.01 Implementation of EU law | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| INTA International Trade | LEICHTFRIED Jörg (S&D) | 22/09/2011 |
| | Shadow rapporteur<br>QUISTHOUDT-ROWOHL Godelieve (PPE)<br>KAZAK Metin (ALDE)<br>KELLER Ska (Verts/ALE)<br>ZAHRADIL Jan (ECR) | |

| Former committee responsible | Former rapporteur | Appointed |
|---|---|---|
| INTA International Trade | LEICHTFRIED Jörg (S&D) | 22/09/2011 |

| Former committee for opinion | Former rapporteur for opinion | Appointed |
|---|---|---|
| JURI Legal Affairs | The committee decided not to give an opinion. | 11/07/2011 |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| Foreign Affairs | 3203 | 2012-11-29 |
| Economic and Financial Affairs ECOFIN | 3271 | 2013-11-15 |
| Agriculture and Fisheries | 3257 | 2013-09-23 |

### European

| Commission DG | Commissioner |
|---|---|

| | | |
|---|---|---|
| Commission | Trade and Economic Security | DE GUCHT Karel |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 15/06/2011 | Legislative proposal published | COM(2011)0349 | Summary |
| 23/06/2011 | Committee referral announced in Parliament, 1st reading | | |
| 27/03/2012 | Vote in committee, 1st reading | | |
| 02/04/2012 | Committee report tabled for plenary, 1st reading | A7-0096/2012 | Summary |
| 22/11/2012 | Decision by Parliament, 1st reading | T7-0447/2012 | Summary |
| 22/11/2012 | Results of vote in Parliament | | |
| 22/11/2012 | Debate in Parliament | | |
| 29/11/2012 | Debate in Council | | |
| 15/11/2013 | Council position published | 13284/1/2013 | Summary |
| 21/11/2013 | Committee referral announced in Parliament, 2nd reading | | |
| 28/11/2013 | Vote in committee, 2nd reading | | |
| 02/12/2013 | Committee recommendation tabled for plenary, 2nd reading | A7-0419/2013 | Summary |
| 11/12/2013 | Debate in Parliament | | |
| 12/12/2013 | Decision by Parliament, 2nd reading | T7-0586/2013 | Summary |
| 12/12/2013 | Results of vote in Parliament | | |
| 15/01/2014 | Final act signed | | |
| 15/01/2014 | End of procedure in Parliament | | |
| 21/01/2014 | Final act published in Official Journal | | |

## Technical information

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|---|---|
| **Procedure reference** | 2011/0153(COD) |
| **Procedure type** | COD - Ordinary legislative procedure (ex-codecision procedure) |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Regulation |
| **Legal basis** | Treaty on the Functioning of the European Union TFEU 207 |
| **Other legal basis** | Rules of Procedure EP 165 |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | INTA/7/13348 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee draft report | | PE478.654 | 06/01/2012 | |
| Amendments tabled in committee | | PE480.875 | 13/02/2012 | |
| Committee report tabled for plenary, 1st reading/single reading | | A7-0096/2012 | 02/04/2012 | Summary |
| Text adopted by Parliament, 1st reading/single reading | | T7-0447/2012 | 22/11/2012 | Summary |
| Committee draft report | | PE522.781 | 07/11/2013 | |
| Committee recommendation tabled for plenary, 2nd reading | | A7-0419/2013 | 02/12/2013 | Summary |
| Text adopted by Parliament, 2nd reading | | T7-0586/2013 | 12/12/2013 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Council position | 13284/1/2013 | 15/11/2013 | Summary |
| Draft final act | 00146/2013/LEX | 15/01/2014 | |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(2011)0349 | 15/06/2011 | Summary |
| Commission response to text adopted in plenary | SP(2013)73 | 23/01/2013 | |
| Commission communication on Council's position | COM(2013)0797 | 18/11/2013 | Summary |

**National parliaments**

| Document type | Parliament /Chamber | Reference | Date | Summary |
|---|---|---|---|---|
| Contribution | PT_PARLIAMENT | COM(2011)0349 | 05/12/2011 | |

**Additional information**

| Source | Document | Date |
|---|---|---|
| National parliaments | IPEX | |
| European Commission | EUR-Lex | |
| European Commission | EUR-Lex | |

| Final act | |
|---|---|
| Regulation 2014/0038<br>OJ L 018 21.01.2014, p. 0052 | Summary |

| Delegated acts | |
|---|---|
| **Reference** | **Subject** |
| 2015/2585(DEA) | Examination of delegated act |
| 2014/2783(DEA) | Examination of delegated act |
| 2016/2598(DEA) | Examination of delegated act |
| 2017/2579(DEA) | Examination of delegated act |

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 02/04/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Jörg LEICHTFRIED (S&D, AT) on the proposal for a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures.

The committee recommends that the European Parliament's position, adopted at first reading following the ordinary legislative procedure, should be to amend the Commission proposal as follows:

**Deletion of two Regulations from the Commission proposal**: the report proposes the deletion of the following two Regulations from the Commission proposal:

**1) Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964 /2007.**

- Members recall that adaptation of the GSP Regulation to the new regime of implementing and delegated acts is dealt with by both Omnibus proposals from the Commission. The Omnibus I report introduced numerous amendments changing proposed implementing acts to delegated acts in line with the Scholz report of spring 2011. The two rapporteurs therefore agreed, for the sake of rationality, to keep all the amendments concerning adaptation of the GSP Regulation to the new comitology regime in the Omnibus I report. Consequently, the corresponding part should be deleted from Omnibus II.

**2) Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process.**

- On 13 October 2011, the European Parliament adopted its position in the first reading concerning the Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process. This new amending Regulation addressed inter alia the issue of implementing acts and delegated acts, inserting corresponding provisions in Regulation EC No 1215/2009. The Members therefore judged it necessary to delete the part concerning this Regulation from Omnibus II.

**New Recitals to the amended Regulations**: the Members suggest amending the recitals of the basic acts in order to **explain the use of delegated acts** and to precisely define the objective, content and scope of the delegation. The amendments also ensure the possibility for the Parliament's experts to attend expert meetings organised by the Commission in view of preparation and implementation of delegated acts.

**Limitation in time of the conferral of powers on the Commission**: the report proposes to limit the delegation of power for a period of **five years** after the entry into force of the amended Regulations. The Commission shall draw up a report in respect of the delegation of power not later then nine months before the end of the period of five years. The delegation of power shall be tacitly extended for a periods of identical duration, unless either the European Parliament or the Council opposes this extension within three months at the latest before the end of each period. The Members also propose prolonging the period for expressing any objections to projects of delegated acts from two to **four months**.

**Amendments to the Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements.**

The Commission proposal for Omnibus I establishes the regime of delegated acts for measures adopted according to Article 2(2) and (3) and a procedural article on the Exercise of the delegation. The Commission proposal on Omnibus II provides for delegated acts in Article 4(4) and Article 23, with a cross-reference to Omnibus I. As mentioned above, the two rapporteurs agreed, for the sake of rationality, to keep all the provisions concerning adaptation of Regulation 1528/2007 to the regime of delegated acts in the Omnibus II report, by means of and by deleting the corresponding provisions from Omnibus I.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 15/06/2011 - Legislative proposal

PURPOSE: amend certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures.

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

BACKGROUND: the entry into force of the Treaty of Lisbon has led to significant changes both in the framework for the adoption of delegated and implementing acts and for the conduct of trade policy.

As regards the adoption of delegated and implementing acts the Treaty on the Functioning of the European Union clearly distinguishes between the two:

- the provisions of the Treaty on delegated acts, which are set out in Article 290 of the Treaty on the Functioning of the European Union, provide for the legislator to control the exercise of the Commission's powers by means of a right of revocation and/or a right of objection;
- the provisions of the Treaty on implementing acts, which are set out in Article 291, do not provide any role for the European Parliament and the Council to control the Commission's exercise of implementing powers. Such control can only be exercised by the Member States. A legal framework establishing the mechanisms of such control is set out in Regulation (EU) No 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

As regards trade policy, the Treaty of Lisbon provides that the ordinary legislative procedure applies, meaning that for the first time the European Parliament is fully associated in the conduct of trade policy.

In relation to the adoption of Regulation (EU) No 182/2011 the Commission stated that it will proceed to an examination of all legislative acts in force which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Lisbon Treaty, in order to assess if those instruments need to be adapted to the regime of delegated acts introduced by Article 290 of the TFEU. It will make the appropriate proposals as soon as possible.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 207 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the present proposal results from the Commission's examination of the legislative acts in the field of trade policy. Legislation in the field of trade policy has not been adapted in the past to the regulatory procedure with scrutiny.

This proposal accompanies a first proposal the Commission has made on trade policy, referred to as "Trade Omnibus I") amends certain regulations relating to the common commercial policy as regards procedures where the Council was involved in decision-making which were not based on Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

It proposes that such procedures be converted into either delegated acts pursuant to Article 290 of the Treaty or implementing acts pursuant to Article 291.

The current proposal examines all remaining decision-making procedures found in trade policy legislation in order to adapt them, where appropriate, to the regime for delegated acts set down in Article 290. In principle these are decision-making procedures based on Council Decision 1999/468/EC.

The proposal concerns **10 basic acts**. Where appropriate, the Commission proposes that certain procedures be converted into delegated acts as set down in Article 290.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 22/11/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 607 votes to 17, with 15 abstentions, a legislative resolution on the proposal for a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated powers for the adoption of certain measures.

The European Parliament's position, adopted at first reading following the ordinary legislative procedure, amends the Commission proposal as follows:

**Deletion of two Regulations from the Commission proposal:** the report proposes the deletion of the following two Regulations from the Commission proposal:

**1) Council Regulation (EC) No 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964 /2007.**

- Members recall that adaptation of the GSP Regulation to the new regime of implementing and delegated acts is dealt with by both Omnibus proposals from the Commission. The Omnibus I report introduced numerous amendments changing proposed implementing acts to delegated acts in line with the Scholz report of spring 2011. The two rapporteurs therefore agreed, for the sake of rationality, to keep all the amendments concerning adaptation of the GSP Regulation to the new comitology regime in the Omnibus I report. Consequently, the corresponding part should be deleted from Omnibus II.

**2) Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process.**

- On 13 October 2011, the European Parliament adopted its position in the first reading concerning the Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process. This new amending Regulation addressed *inter alia* the issue of implementing acts and delegated acts, inserting corresponding provisions in Regulation EC No 1215/2009. The Members therefore judged it necessary to delete the part concerning this Regulation from Omnibus II.

**New Recitals to the amended Regulations:** Parliament proposes amending the recitals of the basic acts in order **to explain the use of delegated acts** and to precisely define the objective, content and scope of the delegation. The amendments also ensure the possibility for the Parliament's experts to attend expert meetings organised by the Commission in view of preparation and implementation of delegated acts.

**Limitation in time of the conferral of powers on the Commission:** Parliament proposes to limit the delegation of power for a period of **five years** after the entry into force of the amended Regulations. The Commission shall draw up a report in respect of the delegation of power not later then nine months before the end of the period of five years. The delegation of power shall be tacitly extended for a periods of identical duration, unless either the European Parliament or the Council opposes this extension within three months at the latest before the end of each period. The Members also propose prolonging the period for expressing any objections to projects of delegated acts from two to **four months**.

**Amendments to the Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements.**

The Commission proposal for Omnibus I establishes the regime of delegated acts for measures adopted according to Article 2(2) and (3) and a procedural article on the Exercise of the delegation. The Commission proposal on Omnibus II provides for delegated acts in Article 4(4) and Article 23, with a cross-reference to Omnibus I. As mentioned above, the two rapporteurs agreed, for the sake of rationality, to keep all the provisions concerning adaptation of Regulation 1528/2007 to the regime of delegated acts in the Omnibus II report, by means of amendments and by deleting the corresponding provisions from Omnibus I.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 18/11/2013 - Commission communication on Council's position

The Commission **can accept the amendments made by Council to its proposal**.

The position of the Council at first reading is consistent with the result of the last trialogue between the European Parliament and the Council which was held on 5 June 2013 and then confirmed by the two institutions at the level of Coreper and the European Parliament's International Trade Committee in July 2013.

The proposal, accompanied by an initial Commission proposal on trade policy and the so-called "Trade Omnibus Act I", reflects the evolution of the legal framework and the institutional balance established by the entry into force of the Treaty of Lisbon. It aligns the regulations it contains on the provisions of Articles 290 (delegated acts) and 291 (implementing acts) of the TFEU and Regulation (EU) No 182/2011 of the European Parliament and Council laying down the rules and general principles concerning mechanisms for control by Member States for the exercise of implementing powers by the Commission.

According to the Commission, aligning the procedures on common procedures should aid understanding of the procedures applicable in trade policy and the transparency provisions of the horizontal regulation should enhance the overall transparency of trade policy.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 15/11/2013 - Council position

The Council has adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated powers and implementing powers for the adoption of certain measures ("Trade Omnibus Act II").

The proposed regulation should establish the **more effective use of delegated powers and implementation by the Commission** in the conduct of trade policy and ensure consistency with the provisions introduced by the Treaty of Lisbon.

The position of the Council at first reading **reflects the compromise reached by the Council and the Parliament during the negotiations**, with the help of the Commission.

The main points for amendment were the following:

- the use of the urgency procedure;
- the adaptations to annexes;
- the scope of the regulations;
- the period of validity and extension of the delegated acts; the delay for formulating objectives to delegated acts;
- the granting of delegated authority for the adoption of safeguard measures.

A significant number of issues contained in the proposal also figure in the Trade Omnibus Act I. In order to achieve a consistent result, it was decided to conduct the negotiations on the two files in parallel.

The Chair of the European Parliament's International Trade Committee has indicated in a letter to the COREPER Chair that, should the Council transmit formally to the Parliament its position in the form as it stands in the annex to that letter, he would recommend to the Plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at the Parliament's second reading.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 02/12/2013 - Committee recommendation tabled for plenary, 2nd reading

The Committee on International Trade adopted the recommendation for a second reading contained in the report by Jörg LEICHTFRIED (S&D, AT), and approved, without amendment, the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures.

The committee also approved the **joint statement by Parliament and the Council** annexed to the resolution on Regulation (EEC) No 3030/93 and Regulation (EC) No 517/94: certain articles of these Regulations refer to decision-making procedures for the adoption of safeguard measures in the field of trade defence. The three institutions consider that safeguard measures are to be treated as implementing measures. Exceptionally, the measures will take the form of delegated acts as the introduction of a safeguard measure takes the form of an amendment to the relevant annexes to the Basic Regulations.

The committee also approved a Commission declaration on codification as well as a declaration on delegated acts, where the latter recalls the commitment it has made to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 15/01/2014 - Final act

PURPOSE: to amend certain regulations relating to the common commercial policy with a view to adapting them to the decision-making procedures provided for in the Lisbon Treaty, which entered into force in December 2009 (delegated and implementing powers of the Commission) – “Omnibus II”.

LEGISLATIVE ACT: Regulation (EU) No 38/2014 of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures.

CONTENT: the regulation seeks to adapt a certain number of regulations adopted between 1993 and 2008 in the area of trade policy to the new system of delegated acts (Article 290 of the TFEU) and implementing acts (Article 291 of the TFEU).

Two aligning proposals known as Omnibus I and Omnibus II each bring together in a single instrument the underlying trade regulations that needed to be updated: Omnibus I mainly covers implementing acts and **Omnibus II mainly delegated acts**.

This proposal (Omnibus II) therefore brings about the necessary changes to the underlying texts which previously referred to the old comitology decision 1999/468/EC.

When reference is made to the adoption of delegated acts, the regulation stipulates that the power to adopt such acts is given to the Commission for a period of **five years** (that may be tacitly extended for periods of the same duration) with effect from 20 February 2014. The European Parliament or the Council may raise objections to a delegated act within a period of two months from the date of its notification (this period may be extended by a further period of two months). If the European Parliament or the Council make objections, the delegated act does not enter into force.

The regulation contains a **statement by the Commission** recalling that it has undertaken, under the terms of the Framework Agreement on relations between the European Parliament and the European Commission, to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.

The regulation does not concern procedures for the adoption of measures that were initiated but not been completed before its entry into force.

ENTRY INTO FORCE: 20.02.2014.

# Common commercial policy: aligning certain acts with the TFEU (Commission delegated and implementing powers)

2011/0153(COD) - 12/12/2013 - Text adopted by Parliament, 2nd reading

The European Parliament **adopted without amendment the Council position at first reading** with a view to the adoption of a regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures.

Parliament adopted a **joint statement by the European Parliament, Council and the Commission** on Regulation (EEC) No 3030/93 and Regulation (EC) No 517/94: it is noted that: (i) the procedures provided for in certain articles of the two Regulations are converted into procedures for the adoption of delegated acts and (ii) some of those Articles refer to decision-making procedures for the adoption of safeguard measures in the field of trade defence.

The three institutions considered that safeguard measures are to be treated as implementing measures. Exceptionally, in the specific existing Regulations referred to above, the measures take the form of delegated acts as the introduction of a safeguard measure takes the form of an amendment to the relevant annexes to the Basic Regulations.

The annex to the legislative resolution contains a **statement from the Commission on delegated acts**: the Commission recalls the commitment it has to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.