Basic information

2012/0145(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Protection against dumped imports from countries not members of the European Community: investigations **Subject** 6.20.02 Export/import control, trade defence, trade barriers	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	INTA International Trade	MOREIRA Vital (S&D)	20/06/2012
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Justice and Home Affairs (JHA)	3207	2012-12-06
European Commission	**Commission DG**	**Commissioner**	
	Trade and Economic Security	DE GUCHT Karel	

Key events

Date	Event	Reference	Summary
08/06/2012	Legislative proposal published	COM(2012)0270	Summary
14/06/2012	Committee referral announced in Parliament, 1st reading		
12/07/2012	Vote in committee, 1st reading		
18/07/2012	Committee report tabled for plenary, 1st reading	A7-0243/2012	Summary
25/10/2012	Decision by Parliament, 1st reading	T7-0397/2012	Summary
25/10/2012	Results of vote in Parliament		
06/12/2012	Act adopted by Council after Parliament's 1st reading		
12/12/2012	Final act signed		
12/12/2012	End of procedure in Parliament		
14/12/2012	Final act published in Official Journal		

Technical information

Procedure reference	2012/0145(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/7/09812

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE492.647	26/06/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0243/2012	18/07/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0397/2012	25/10/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00060/2012/LEX	12/12/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0270	08/06/2012	Summary
Commission response to text adopted in plenary	SP(2012)767	15/11/2012	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0270	07/12/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	

European Commission	EUR-Lex	

Final act

Regulation 2012/1168
OJ L 344 14.12.2012, p. 0001 Summary

Protection against dumped imports from countries not members of the European Community: investigations

2012/0145(COD) - 25/10/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 652 votes to 13 with 11 abstentions a legislative resolution on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.

Parliament adopted its position on first reading following the ordinary legislative procedure. The amendment adopted in plenary is the result of an agreement negotiated between Parliament and Council. The main amendment is as follows:

Determination of dumping: with regard to certain provisions, a determination whether the producer meets the relevant criteria shall be made within normally seven months but not later than within eight months of the initiation of the investigation (rather than within three months of the initiation of the investigation).

Protection against dumped imports from countries not members of the European Community: investigations

2012/0145(COD) - 12/12/2012 - Final act

PURPOSE: to amend Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.

LEGISLATIVE ACT: Regulation (EU) No 1168/2012 of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.

CONTENT: the Council adopted an amending regulation on protection against dumped imports from countries not members of the European Community following an agreement at first reading with the European Parliament.

To recall, in ***Case C-249/10 P Brosmann and others v. Council*** (Judgment of 2 February 2012), the Court of Justice of the European Union ruled that the sampling technique provided for in Article 17 of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community may not be applied for the purposes of the determination of claims of market economy treatment to be made under that Regulation.

The ruling by the Court of Justice of the European Union on the application of Council Regulation (EC) No 1225/2009 would require that the Commission examine all applications for market economy treatment filed by cooperating producers who are not part of the sample, irrespective of the number of producers. However, such a practice would impose a disproportionate administrative burden on the investigating authorities of the Union.

Therefore, taking into account the Court's ruling and for reasons of legal certainty, Regulation (EC) No 1225/2009 has been amended as follows:

- introducing a provision clarifying that the decision to limit the investigation to a reasonable number of parties by using samples on the basis of Article 17 of Regulation (EC) No 1225/2009 also applies to the parties subject to an examination in accordance with subparagraphs (b) and (c) of Article 2(7) of that Regulation. Consequently, it is also appropriate to clarify that a determination under subparagraph (c) of Article 2(7) of that Regulation should not be made for exporting producers that are not part of the sample, unless such producers request and obtain individual examination in accordance with Article 17(3) thereof;
- clarifying that the anti-dumping duty to be applied to imports from exporters or producers which have made themselves known in accordance with Article 17 of Regulation (EC) No 1225/2009 but were not included in the examination is not to exceed the weighted average margin of dumping established for the parties in the sample, irrespective of whether the normal value established for such parties was determined on the basis of Article 2(1) to (6) or subparagraph (a) of Article 2(7) of that Regulation.

Lastly, the Regulation extends from **three to seven months** the time limit for the Commission to decide on the applications for market economy treatment.

ENTRY INTO FORCE: 15/12/2012. This Regulation shall apply to all new and to all pending investigations from this date.

Protection against dumped imports from countries not members of the European Community: investigations

2012/0145(COD) - 08/06/2012 - Legislative proposal

PURPOSE: to amend Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.

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

BACKGROUND: in ***Case C-249/10 P - Brosmann and others v. Council*** (Judgement of 2 February 2012), the European Court of Justice ruled that the sampling technique provided for in Article 17 of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community4 may not be applied for the purposes of the determination of claims of market economy treatment to be made under Article 2(7)(c) of that Regulation.

The ruling by the European Court of Justice on the application of Council Regulation (EC) No 1225/2009 would require that the Commission examine all applications for market economy treatment filed by cooperating producers who are not part of the sample, irrespective of the number of producers. However, such a practice would impose a disproportionate administrative burden on the investigating authorities of the Union. Therefore, it is appropriate to amend Regulation (EC) No 1225/2009.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 207(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: in the light of the Court's judgement, the Commission proposes to amend Regulation (EC) No 1225/2009, in particular with regard to the **time limit of three months** for the Commission to decide on the applications for market economy treatment.

In addition, for reasons of legal certainty, it is considered appropriate to introduce a provision clarifying that the decision to limit the investigation to a reasonable number of producers by using samples on the basis of Article 17 of Council Regulation (EC) No 1225/2009 also applies to the parties subject to a market economy treatment examination, in accordance with Article 2(7)(b) and (c).

Lastly, the proposal clarifies that the anti-dumping duty to be applied to imports from producers, **which have made themselves known in accordance with Article 17 but were not included in the examination**, shall not exceed the weighted average margin of dumping established for the parties in the sample, irrespective of whether the normal value established for such parties was determined on the basis of Articles 2(1) to 2(6) or Article 2(7)(a).

BUDGETARY IMPLICATION: this proposal does not have any implications for the EU budget.

Protection against dumped imports from countries not members of the European Community: investigations

2012/0145(COD) - 18/07/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Vital MOREIRA (S&D, PT) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community.

The parliamentary committee recommends that the European Parliament adopts its position at first reading, under the ordinary legislative procedure, taking over the Commission proposal.