

Rules of procedure for the appeal committee (Regulation (EU) No 182/2011)**Adopted by the appeal committee on 29 March 2011**

(2011/C 183/05)

THE APPEAL COMMITTEE,

Having regard to Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽¹⁾, and in particular Article 3(7) thereof,

Having regard to the proposal from the Commission,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

*Article 1***General rules for convening a meeting**

1. Without prejudice to Article 2, where the chair of a committee decides, in accordance with Article 5(3) and (4) of Regulation (EU) No 182/2011, to refer a case to the appeal committee, the chair shall immediately inform the members of the committee and the Permanent Representations of the Member States (hereinafter: 'the Permanent Representations') of that decision. The date of that communication shall be considered as the date of referral. The communication on the referral shall be accompanied by the final draft implementing act as submitted to the vote of the committee.

2. In the cases foreseen in Article 7 of Regulation (EU) No 182/2011, the chair of the committee shall immediately submit the implementing act to the appeal committee. The date of that submission shall be considered as the date of referral.

3. In accordance with the third subparagraph of Article 3(7) of Regulation (EU) No 182/2011, the appeal committee shall meet at the earliest 14 calendar days and at the latest six weeks after the date of referral.

4. Except in duly justified cases, the chair shall convene a meeting not less than 14 days from the submission of the draft implementing act and of the draft agenda to the committee.

5. In accordance with the fifth subparagraph of Article 3(7) of Regulation (EU) No 182/2011, the Commission shall set the date of the appeal committee meeting in close cooperation with

the Member States, in order to enable Member States and the Commission to ensure an appropriate level of representation.

To this effect, the Commission shall consult Member States on various options for date of the meeting. Member States may make suggestions on this regard and indicate the level of representation that they consider appropriate which should be of a sufficiently high and horizontal nature, including at Ministerial level. As a general rule, representation should not be below the level of members of the committee of Permanent Representatives of the governments of the Member States. The Commission shall take the utmost account of such suggestions.

*Article 2***Convening a meeting in cases of draft definitive anti-dumping or countervailing measures**

1. In the cases referred to in Article 5(5) of Regulation (EU) No 182/2011, the Commission shall start consultations with the Member States immediately after the vote.

2. The chair shall inform the members of the committee and the Permanent Representations of the results of the consultations provided for in paragraph 1 and, on that basis, shall submit to the appeal committee either:

(a) the version of the draft implementing act on which the committee voted; or

(b) an amended version of the draft implementing act.

The date of submission pursuant to the first subparagraph shall be considered as the date of referral. It shall be 14 calendar days at the earliest and one month at the latest after the committee meeting.

3. In accordance with the second subparagraph of Article 5(5) of Regulation (EU) No 182/2011, the appeal committee shall meet 14 calendar days at the earliest and one month at the latest after the referral.

4. In accordance with the second subparagraph of Article 5(5) of Regulation (EU) No 182/2011, the time-limits referred to in this Article shall be without prejudice to the need to respect the deadlines laid down in the relevant basic acts.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

*Article 3***Documentation to be submitted to members of the appeal committee**

1. The chair of the appeal committee shall draw up the agenda and submit it to the appeal committee.

2. The chair of the appeal committee shall submit the invitation, the draft implementing acts and other documents for the meeting to the members of the appeal committee well in advance of the meeting, taking into account the urgency and the complexity of the matter, and no later than 14 calendar days before the date of the meeting in accordance with Article 1(4). The documents shall be submitted in accordance with Article 11(2).

*Article 4***Opinion of the appeal committee**

1. The appeal committee shall deliver its opinion on the draft implementing act or in the cases of Article 7 of the Regulation (EU) No 182/2011, on the implementing act, within the time-limit laid down by the chair of that committee in accordance with Article 3(3) and the third subparagraph of Article 3(7) of Regulation (EU) No 182/2011.

2. In accordance with Article 3(4) and Article 6(2) of Regulation (EU) No 182/2011, the chair shall endeavour to find solutions which command the widest possible support within the appeal committee. Before the vote, the chair shall inform the appeal committee of the manner in which the discussions and suggestions for amendments have been taken into account, in particular as regards those suggestions which have been largely supported within the appeal committee.

3. The appeal committee shall deliver its opinion by a qualified majority, in accordance with Article 6(1) of Regulation (EU) No 182/2011.

By way of derogation from the first subparagraph, until 1 September 2012, in accordance with Article 6(5) of Regulation (EU) No 182/2011, the appeal committee shall deliver its opinion on draft definitive anti-dumping or countervailing measures by a simple majority of its component members.

4. Unless a member of the appeal committee objects, the chair may, without proceeding to a formal vote, establish that the appeal committee has delivered a positive opinion, by consensus, on the draft implementing act.

5. The chair, in consultation with the members of the appeal committee, may, on his/her own initiative or at the request of a member of the appeal committee, postpone a vote until the end of the meeting or to a later meeting.

6. Where no opinion is delivered by the appeal committee, the chair shall, as soon as possible, inform the members of that committee whether the Commission intends to adopt the draft implementing act.

*Article 5***Representation and quorum**

1. Each Member State shall be considered to be one member of the appeal committee. Each member of the appeal committee shall decide on the composition of its delegation and inform the chair and the other Member States with a view to achieving a level of representation as homogenous as possible at the meeting of the appeal committee. The composition of each delegation shall be communicated to the chair of the appeal committee within a reasonable time and no later than five calendar days before the date of a meeting of the appeal committee.

2. The reimbursement of travel expenses by the Commission shall be limited to one person per Member State.

3. A Member State delegation may represent a maximum of one other Member State. The Member State that is being represented shall inform the chair of this before the meeting, or, at the latest, before the vote.

4. The presence of a majority of the Member States is required to enable the appeal committee to vote. This rule also applies when the appeal committee delivers an opinion by consensus. However, when the time-limit for the appeal committee to deliver an opinion has expired by application of Article 3(3) or (7) of Regulation (EU) No 182/2011, it is to be considered, for the purposes of Article 6(3) of the Regulation, that the appeal committee did not deliver an opinion.

*Article 6***Third parties and experts**

1. The representatives of third countries or organisations who are entitled by a binding legal act to be present in the committee meeting shall be invited to attend the meetings of the appeal committee.

2. Representatives of acceding countries shall be invited to attend the meetings of the appeal committee as from the date of signature of the Treaty of accession.

3. If a simple majority of the members of the appeal committee support a request for the presence of representatives of Union's bodies or offices, as well as agencies of the Union to

which the basic act gives a role in adoption of the implementing act, they shall be invited to the meeting. The chair may also decide to invite such representatives on his/her own initiative. However, a simple majority of Member States may oppose their participation in the meeting.

4. Representatives of third parties referred to in paragraphs 1, 2 and 3 shall not be present at and shall not participate in voting of the appeal committee.

5. No other third parties or experts who are not part of a delegation of a Member State shall attend the meetings of the appeal committee.

Article 7

Written procedure

1. The chair may obtain the appeal committee's opinion by written procedure in accordance with Article 3(5) of Regulation (EU) No 182/2011. In particular, the chair may use the written procedure to obtain the appeal committee's opinion in cases where the draft implementing act has already been discussed during a meeting of the appeal committee.

2. The chair shall inform the members of the appeal committee of the outcome of a written procedure without delay, and no later than 14 calendar days after the expiry of the time-limit.

Article 8

Secretarial support

The Commission shall provide secretarial support for the appeal committee.

Article 9

Minutes and summary record of meetings

1. For the purpose of Article 3(6) of Regulation (EU) No 182/2011, the minutes of each meeting shall be drawn up under the responsibility of the chair. Members of the appeal committee shall have the right to ask for their position to be recorded in the minutes. The chair shall send the minutes to the members of the appeal committee without delay, and no later than one month after the meeting.

The members of the appeal committee shall send any comments they may have on the draft minutes to the chair in writing. If there is any disagreement, the matter shall be discussed by the appeal committee. If the disagreement persists, the relevant comments shall be annexed to the final minutes.

2. For the purpose of Article 10 of Regulation (EU) No 182/2011, the chair shall be responsible for drawing up a summary record briefly describing each item on the agenda

and the results of the vote on any draft implementing act submitted to the appeal committee. The summary record shall not mention the individual position of the members in the appeal committee's discussions.

Article 10

Attendance list

At each meeting, the chair shall draw up an attendance list specifying the authorities and organisations to which the persons designated by the Member States to represent them belong.

Article 11

Correspondence

1. Correspondence relating to the appeal committee shall be submitted to the Commission, for the attention of the chair of the appeal committee.

2. Correspondence for members of the appeal committee shall be submitted to the Permanent Representations. In addition, correspondence may be submitted directly to the persons designated by the Member States to represent them in the appeal committee.

3. The Permanent Representations and the Commission may indicate a specific central electronic address for correspondence.

Article 12

Access to documents and confidentiality

1. Requests for access to appeal committee documents shall be handled in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council⁽¹⁾. It is for the Commission to take a decision on requests for access to those documents pursuant to its Rules of Procedure as amended by Decision 2001/937/EC, ECSC, Euratom⁽²⁾. If the request is addressed to a Member State that Member State shall apply Article 5 of Regulation (EC) No 1049/2001.

2. The appeal committee's discussions shall be confidential.

3. Documents submitted to members of the appeal committee and representatives of third parties shall be confidential, unless access is granted to those documents pursuant to paragraph 1 or they are otherwise made public by the Commission.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

⁽²⁾ OJ L 345, 29.12.2001, p. 94.

4. The members of the appeal committee, as well as representatives of third parties shall be required to respect the confidentiality obligations set out in this Article. The chair shall ensure that representatives of third parties are made aware of the confidentiality requirements imposed upon them.

Article 13

Protection of personal data

The processing of personal data by the appeal committee shall be in conformity with Regulation (EC) No 45/2001 of the

European Parliament and of the Council ⁽¹⁾, under the responsibility of the chair acting as the controller, within the meaning of point (d) of Article 2 of that Regulation.

Article 14

Review

By April 2014, the Commission shall evaluate how the present Rules operated in practice and may present a proposal for their revision.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.