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EUROPEAN COMMISSION

Brussels, 7.3.2011  
COM(2011) 82 final

2011/0039 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending certain regulations relating to the common commercial policy as regards the  
procedures for the adoption of certain measures**

## EXPLANATORY MEMORANDUM

### 1. INTRODUCTION

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 (hereinafter "the Treaty") clearly distinguishes between delegated and implementing acts.

- 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 is required to establish the mechanisms of such control.

As regards trade policy, the Treaty of Lisbon makes the European Parliament co-legislator and its consent is required for the conclusion of agreements.

On 9 March 2010 the Commission adopted a proposal for a regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>1</sup>. One of the key objectives of this proposal is to provide that the control of the Commission's exercise of its implementing powers is conducted not by the Council or the European Parliament but by the Member States as is required by Article 291 of the Treaty. In the proposal, this is achieved by the creation of procedures (the advisory and examination procedures) whereby the Commission's implementing acts are subject to control by the Member States combined with an automatic alignment<sup>2</sup> of existing procedures established under Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>3</sup>. In this manner, the Commission's proposal will bring the exercise of control over the Commission's implementing acts in those areas where the procedures laid down in Council Decision 1999/468/EC apply in line with the requirements of Article 291 whereby it is the Member States and not the legislators that exercise such control. These main features were preserved in the text adopted in the first reading legislative resolution of the European Parliament on 16 December 2010 and in the undertakings given by the Council representative in its letter of 1 December 2010. The Regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing power is expected to enter into force on 1<sup>st</sup> March 2011.

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<sup>1</sup> COM(2010)83 final of 9.3.2010, 2010/0051 (COD).

<sup>2</sup> See Article 10 of the Commission's proposal.

<sup>3</sup> OJ L 184, 17.7.1999, p. 23.

As noted in the Commission's proposal of 9 March 2010<sup>4</sup>, the adaptation of existing basic acts provided for in Article 13<sup>5</sup> will not operate, however, for a significant number of basic acts in the field of the common commercial policy. These basic acts were not previously subject to the procedures laid down in Council Decision 1999/468/EC of 28 June 1999. The current proposal addresses procedures for the control or adoption of acts in twenty four basic acts in the field of the common commercial policy not previously subject to Council Decision 1999/468/EC.

There is another act which would in principle fall under the scope of this proposal. This act is Council Regulation (EEC) No 1842/71 of 21 June 1971 on protective measures provided for in the additional protocol to the Association Agreement between the EEC and Turkey and to the interim agreement between the EEC and Turkey<sup>6</sup>. However, versions of this act are not available in a significant number of official languages of the Union. As a consequence, amending the act also requires the establishment of versions of the Regulation in the languages which are currently unavailable. Rather than fold this exercise into this proposal, it is considered preferable that the Regulation be replaced. At the time of replacement, the Commission will address the relevant decision-making issues (which are otherwise very similar to those arising for Council Regulation (EEC) No 2841/72 of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation). The Commission will take the necessary steps in this regard as soon as possible.

## **2. POWERS FOR THE COUNCIL TO OVERRULE THE COMMISSION**

Of those twenty four acts in the field of the common commercial policy not subject to Council Decision 1999/468/EC and covered by this proposal twenty provide for the Commission to adopt implementing acts, typically but not exclusively, safeguard or provisional measures, and provide for the Council to overrule such acts by a qualified majority within a specified period of time. This list of basic acts covered by this proposal with such procedures is as follows:

- Council Regulation (EEC) No 2841/72 of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation<sup>7</sup>,
- Council Regulation (EEC) No 2843/72 of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Republic of Iceland<sup>8</sup>,
- Council Regulation (EEC) No 1692/73 of 25 June 1973 on the safeguard measures provided for in the Agreement between the European Economic Community and the Kingdom of Norway<sup>9</sup>,

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<sup>4</sup> See the final paragraph of the Explanatory Memorandum.

<sup>5</sup> The numbering throughout this proposal refers to the Regulation as contained in the Parliament's legislative resolution of 16 December 2010.

<sup>6</sup> OJ L 192, 26.8.1971, p. 14.

<sup>7</sup> OJ L 300, 31.12.1972, p. 284.

<sup>8</sup> OJ L 301, 31.12.1972, p. 162.

<sup>9</sup> OJ L 171, 27.6.1973, p. 103.

- Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization<sup>10</sup>,
- Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom<sup>11</sup>,
- Council Regulation (EC) No 2248/2001 of 19 November 2001 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part and for applying the Interim Agreement between the European Community and the Republic of Croatia, as amended<sup>12</sup>,
- Council Regulation (EC) No 153/2002 of 21 January 2002 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, and for applying the Interim Agreement between the European Community and the Former Yugoslav Republic of Macedonia as amended<sup>13</sup>,
- Council Regulation (EC) No 427/2003 of 3 March 2003 on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China<sup>14</sup>,
- Council Regulation (EC) No 1616/2006 of 23 October 2006 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, and for applying the Interim Agreement between the European Community and the Republic of Albania<sup>15</sup>,
- 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<sup>16</sup>,
- Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC<sup>17</sup>,
- Council Regulation (EC) No 140/2008 of 19 November 2007 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other

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<sup>10</sup> OJ L 349, 31.12.1994, p. 71.

<sup>11</sup> OJ L 309, 29.11.1996, p. 1.

<sup>12</sup> OJ L 304, 21.11.2001, p. 1.

<sup>13</sup> OJ L 25, 29.01.2002, p. 16.

<sup>14</sup> OJ L 65, 8.3.2003, p. 1.

<sup>15</sup> OJ L 300, 31.10.2006, p. 1.

<sup>16</sup> OJ L 348, 31.12.2007, p. 1.

<sup>17</sup> OJ L 20, 24.1.2008, p. 1.

part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Montenegro, of the other part<sup>18</sup>,

- Council Regulation (EC) No 594/2008 of 16 June 2008 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, and for applying the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part<sup>19</sup>
- 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<sup>20</sup>,
- Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports<sup>21</sup>,
- Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>22</sup>,
- Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries<sup>23</sup>,
- Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports<sup>24</sup>,
- 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<sup>25</sup>,
- Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>26</sup>,

Given these basic acts will not be affected by the adaptation of existing basic acts provided for in the Commission's proposal for a Regulation on the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers it is appropriate that these acts be amended so as to render the decision-making procedures consistent with the new framework. Where these acts provide for the Council to reject or amend a Commission decision by qualified majority, the Commission proposes that the examination procedure be used.

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<sup>18</sup> OJ L 43, 19.2.2008, p. 1.

<sup>19</sup> OJ L 169, 30.6.2008, p. 1.

<sup>20</sup> OJ L 211, 6.8.2008, p. 1.

<sup>21</sup> OJ L 84, 31.3.2009, p. 1.

<sup>22</sup> OJ L 188, 18.7.2009, p. 93.

<sup>23</sup> OJ L 185, 17.7.2009, p. 1.

<sup>24</sup> OJ L 291, 7.11.2009, p. 1.

<sup>25</sup> OJ L 328, 15.12.2009, p. 1.

<sup>26</sup> OJ L 343, 22.12.2009, p. 51.

### 3. RESERVATIONS OF POWER FOR THE COUNCIL

In sixteen of the twenty four basic acts, the Council reserved the right to adopt measures to itself. In the view of the Commission, these acts include a substantial number of implementing powers but also powers to supplement or amend the basic acts in question, references to the possibility to act on the general legal basis of Article 207 (previously 133) of the Treaty and to repeal the legislation in question.

As regards those acts which are considered to be implementing powers, Article 291 TFEU provides that the Council may reserve implementing powers to itself "in duly justified specific cases". The Court of Justice has ruled that in respect of a similarly worded possibility that "the Council may reserve the right to exercise implementing powers directly only in specific cases, and it must state in detail the grounds for such a decision. That means that the Council must properly explain, by reference to the nature and content of the basic instrument to be implemented or amended, why exception is being made to the rule that, under the system established by the Treaty, when measures implementing a basic instrument need to be taken at Community level, it is the Commission which, in the normal course of events, is responsible for exercising that power."<sup>27</sup>

The Commission has re-examined these acts in the light of the entry into force of the Treaty of Lisbon, and in particular, in the light of the status given to the European Parliament as co-legislator in the common commercial policy. It notes that none of the basic acts state in detail why measures should be adopted by the Council rather than the Commission. In light of the fact that the Commission is already granted implementing powers for the execution of the common commercial policy, including in trade defence measures, and including provisional measures, the Commission takes the view that these reservations of powers need to be revised and aligned on the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers to be adopted pursuant to Article 291(3) of the Treaty.

The Commission's amendments to the following acts are intended to bring about such a change:

- Council Regulation (EC) No 385/96 of 29 January 1996 on protection against injurious pricing of vessels,
- Council Regulation (EC) No 1515/2001 of 23 July 2001 on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters,
- Council Regulation (EC) No 427/2003 of 3 March 2003 on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China,
- Council Regulation (EC) No 452/2003 of 6 March 2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures,

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<sup>27</sup> Paras 50-51, Case C-257/01 *Commission v Council* [ECR] 2005 p. I-00345. See also Case C-133/06 *European Parliament v Council* [ECR] 2008 p. I-03189.

- 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,
- Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC,
- 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,
- Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports,
- Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community,
- Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries,
- Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports,
- 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,
- Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community,

Where the powers reserved to the Council do not concern the adoption of implementing acts, but rather the adoption of amendments to the basic act, the Commission proposes that delegated powers be granted to the Commission. The amendments proposed to the following acts are intended to bring about this result:

- Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom,
- 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,

Finally, in one basic act the Council is required to adopt a measure on the basis of Article 133 EC (now Article 207 of the Treaty) and in another basic act the Council is required to repeal the measure on the occurrence of certain events. It is necessary to revise these provisions, since, while the Council had in the past reserved powers for itself, in effect the measures that would be adopted pursuant to these provisions would not be considered either delegated or implementing acts, but rather basic acts, or amendments thereto, subject now to Article 207 of the Treaty. The relevant acts are:



- Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization,
- Council Regulation (EC) No 673/2005 of 25 April 2005 establishing additional customs duties on imports of certain products originating in the United States of America.

#### **4. OTHER ADJUSTMENTS RELATED TO THE APPLICATION OF THE REGULATION LAYING DOWN THE RULES AND GENERAL PRINCIPLES CONCERNING MECHANISMS FOR CONTROL BY THE MEMBER STATES OF THE COMMISSION'S IMPLEMENTING POWERS**

A number of the acts covered by this regulation provide for the Commission to consult the committee before adopting implementing acts or before acting in some other way. The Commission takes the view that either the Commission adopts implementing acts subject to control by the Member States through the use of the advisory or examination procedure or it does so without any control. As a consequence, the Commission proposes to remove instances in these acts which provide for consultation of the relevant committees where the results of the consultation do not have legal effects as regards the Commission's exercise of implementing powers.

The Regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing power sets out specific procedures for the adoption of definitive anti-dumping and countervailing duties. The Commission expects that in most cases the procedures foreseen in that Regulation can be implemented quickly and efficiently, within the current time framework. However, in certain exceptional circumstances, having regard to the complexity of the investigation, application of the new regulation may have consequences on the length of time necessary to adopt implementing acts. Therefore, it is appropriate to adapt certain time periods in Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community and in Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community. In particular, it is appropriate to permit the extension, no later than 8 months from the notice of initiation, of the maximum length of time for the imposition of provisional measures to 12 months from the initiation of the investigation in exceptional cases in the light of the complexity of the investigation. It is also appropriate to permit the extension, no later than 9 months from the notice of initiation, of the maximum length of time for the investigation to 18 months in exceptional cases in the light of the complexity of the investigation, in line with the relevant WTO Agreements. Whilst respecting the right of interested parties to be fully informed and to provide comments on the results of investigations, it is also appropriate to make adjustments to the rules on disclosure.

#### **5. RELATIONSHIP TO OTHER PROPOSALS**

The Commission has already adopted, since the entry into force of the Treaty of Lisbon, two proposals in the field of the common commercial policy which if adopted would amend basic acts providing either a power of the Council to control the Commission's implementing acts or a power to adopt implementing acts. In the Explanatory Memoranda accompanying those

proposals, the Commission announced its intention to present a proposal revising all relevant procedures in the common commercial policy and therefore to deal with the issue of decision making procedures on a horizontal basis.<sup>28</sup>

Further, it is recalled that the current proposal deals only with those decision-making procedures in acts under the common commercial policy which are not currently subject to Council Decision 1999/468/EC. There are a number of decision-making procedures in the common commercial policy, including some found in the acts subject to this proposal, which are in fact subject to Council Decision 1999/468/EC (including 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). As set out in the Commission's Statement accompanying the European Parliament's legislative resolution, it is the Commission's intention to proceed with a review of these acts in order to determine whether the powers provided to the Commission fall under the scope of Article 290 or Article 291 of the Treaty. The Commission will expeditiously make a proposal amending these acts as necessary, in order to introduce delegated acts. The fact that this proposal does not address those decision-making procedures subject to Council Decision 1999/468/EC should not be understood as implying that the Commission considers that these should be considered as implementing acts subject to Article 291 of the Treaty.

The result of the adoption of the current proposal, and the review of the existing procedures based on Council Decision 1999/468/EC, will be a substantial number of amendments to the acts in question. In order to improve legibility of the acts concerned, the Commission has proposed to replace whole sentences or paragraphs even where only a limited number of words in the sentence or paragraph are in reality being amended. Further, the Commission will propose a codification of the acts as expeditiously as possible once the two horizontal proposals are adopted.

## **6. OVERALL OBJECTIVES**

In bringing forward this proposal, the Commission has sought to reflect the changes in the legal framework and institutional balance brought about by the entry into force of the Lisbon Treaty. Aligning the control of the Commission's exercise of implementing powers on the Regulation on the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers will bring additional advantages. In particular, it will permit a more effective and efficient exercise of the Commission's implementing powers and so contribute to a more effective and efficient common commercial policy. In aligning the procedures on the standard procedures, it will also permit a more ready understanding of the procedures applicable in trade policy and the transparency provisions of the horizontal regulation will increase the overall transparency of the conduct of trade policy.

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<sup>28</sup> See paragraph 11 of the Explanatory Memorandum to the Commission's 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 (COM (2010) 54 2010/36/COD) and paragraph 6 of the Explanatory memorandum to the Commission's Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 732/2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 (COM (2010) 142 2010/0140/COD).

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A number of basic regulations relating to the common commercial policy provide that acts implementing the common commercial policy are to be adopted by the Council according to procedures set down in the various instruments concerned or by the Commission subject to specific procedures and control by the Council. Such procedures are not subject to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>29</sup>.
- (2) It is appropriate to amend those regulations in order to ensure consistency with the provisions introduced by the Treaty of Lisbon. This should be done, where appropriate, through the granting of delegated powers to the Commission and by applying certain procedures set out in Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>30</sup>.
- (3) The following regulations should therefore be amended accordingly:
  - Regulation (EEC) No 2841/72 of the Council of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation<sup>31</sup>,

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<sup>29</sup> OJ L 184, 17.7.1999, p. 23.

<sup>30</sup> OJ L...

<sup>31</sup> OJ L 300, 31.12.1972, p. 284.

- Regulation (EEC) No 2843/72 of the Council of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Republic of Iceland<sup>32</sup>,
- Regulation (EEC) No 1692/73 of the Council of 25 June 1973 on the safeguard measures provided for in the Agreement between the European Economic Community and the Kingdom of Norway<sup>33</sup>,
- Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization<sup>34</sup>,
- Council Regulation (EC) No 385/96 of 29 January 1996 on protection against injurious pricing of vessels<sup>35</sup>,
- Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom<sup>36</sup>,
- Council Regulation (EC) No 1515/2001 of 23 July 2001 on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters<sup>37</sup>,
- Council Regulation (EC) No 2248/2001 of 19 November 2001 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part and for applying the Interim Agreement between the European Community and the Republic of Croatia<sup>38</sup>,
- Council Regulation (EC) No 153/2002 of 21 January 2002 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Former Yugoslav Republic of Macedonia, of the other part, and for applying the Interim Agreement between the European Community and the Former Yugoslav Republic of Macedonia<sup>39</sup>,
- Council Regulation (EC) No 427/2003 of 3 March 2003 on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China<sup>40</sup>,

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<sup>32</sup> OJ L 301, 31.12.1972, p. 162.

<sup>33</sup> OJ L 171, 27.6.1973, p. 103.

<sup>34</sup> OJ L 349, 31.12.1994, p. 71.

<sup>35</sup> OJ L 56, 6.3.1996, p. 21.

<sup>36</sup> OJ L 309, 29.11.1996, p. 1.

<sup>37</sup> OJ L 201, 26.7.2001, p. 10.

<sup>38</sup> OJ L 304, 21.11.2001, p. 1.

<sup>39</sup> OJ L 25, 29.01.2002 p. 16.

<sup>40</sup> OJ L 65, 8.3.2003, p. 1.

- Council Regulation (EC) No 452/2003 of 6 March 2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures<sup>41</sup>,
- Council Regulation (EC) No 673/2005 of 25 April 2005 establishing additional customs duties on imports of certain products originating in the United States of America<sup>42</sup>,
- Council Regulation (EC) No 1616/2006 of 23 October 2006 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, and for applying the Interim Agreement between the European Community and the Republic of Albania<sup>43</sup>,
- 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<sup>44</sup>,
- Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC<sup>45</sup>,
- Council Regulation (EC) No 140/2008 of 19 November 2007 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Montenegro, of the other part<sup>46</sup>,
- Council Regulation (EC) No 594/2008 of 16 June 2008 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, and for applying the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part<sup>47</sup>,
- 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<sup>48</sup>,

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<sup>41</sup> OJ L 69, 13.3.2003, p. 8.

<sup>42</sup> OJ L 110, 30.4.2005, p. 1.

<sup>43</sup> OJ L 300, 31.10.2006, p. 1.

<sup>44</sup> OJ L 348, 31.12.2007, p. 1.

<sup>45</sup> OJ L 20, 24.1.2008, p. 1.

<sup>46</sup> OJ L 43, 19.2.2008, p. 1.

<sup>47</sup> OJ L 169, 30.6.2008, p. 1.

<sup>48</sup> OJ L 211, 6.8.2008, p. 1.

- Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports<sup>49</sup>,
- Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>50</sup>,
- Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries<sup>51</sup>,
- Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports<sup>52</sup>,
- 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<sup>53</sup>,
- Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>54</sup>.

(4) In order to ensure legal certainty, it is necessary that the procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation are not affected by this Regulation,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

The Regulations listed in the Annex are hereby adapted, in accordance with the Annex, to Article 290 of the Treaty or to the applicable provisions of Regulation (EU) No [xxxx/2011].

#### *Article 2*

References to provisions of the instruments in the Annex shall be construed as being made to those provisions as adapted by this Regulation.

References made to the former names of committees shall be construed as being made to the new names as provided for by this Regulation.

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<sup>49</sup> OJ L 84, 31.3.2009, p. 1.

<sup>50</sup> OJ L 188, 18.7.2009, p. 93.

<sup>51</sup> OJ L 185, 17.7.2009, p. 1.

<sup>52</sup> OJ L 291, 7.11.2009, p. 1.

<sup>53</sup> OJ L 328, 15.12.2009, p. 1.

<sup>54</sup> OJ L 343, 22.12.2009, p. 51.

### *Article 3*

This Regulation shall not affect procedures initiated for the adoption of measures provided for in the Regulations in the Annex whenever, on or before the entry into force of this Regulation:

- (a) the Commission has adopted an act; or
- (b) consultation is required under one of the Regulations and such consultations have been initiated; or,
- (c) a proposal is required under one of the Regulations and the Commission has adopted such a proposal.

### *Article 4*

This Regulation shall enter into force on the 30th day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]

## ANNEX

List of Regulations falling under the common commercial policy and adapted to Article 290 of the Treaty or to the applicable provisions of Regulation (EU) No [xxxx/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>55</sup>.

**1. REGULATION (EEC) NO 2841/72 OF THE COUNCIL OF 19 DECEMBER 1972 ON THE SAFEGUARD MEASURES PROVIDED FOR IN THE AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE SWISS CONFEDERATION<sup>56</sup>**

As regards Regulation (EEC) No 2841/72, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>57</sup>.

Accordingly, Regulation (EEC) No 2841/72 is amended as follows:

1. Article 1 is replaced by the following:

"The Commission may decide to refer to the Joint Committee established by the Agreement between the European Economic Community and the Swiss Confederation hereinafter referred to as the 'Agreement' for the purpose of taking the measures provided for in Articles 22, 24, 24a and 26 of the Agreement. Where necessary, the Commission shall adopt these measures in accordance with the procedure referred to in Article 7(2)."

2. In Article 2(1), the second sentence is replaced by the following:

"Where necessary, the Commission shall adopt safeguard measures in accordance with the procedure referred to in Article 7(2)".

3. Article 4 is replaced by the following:

"1. Where exceptional circumstances require immediate action in the situations referred to in Articles 24, 24a and 26 of the Agreement or in the case of export aids that have a direct and immediate effect on trade, the precautionary measures provided for in Article 27(3)(e) of the Agreement may be adopted by the Commission in accordance with the procedure referred to in Article 7(2). In cases of urgency, Article 7(3) shall apply.

2. Where the Commission is asked to take action by a Member State, it shall take a decision within a maximum period of five working days of receipt of the request."

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<sup>55</sup> OJ L...

<sup>56</sup> OJ L 300, 31.12.1972, p. 284.

<sup>57</sup> OJ L...



4. The following Article 7 is added:

*"Article 7*

**Committee**

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>58</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."
- 2. REGULATION (EEC) NO 2843/72 OF THE COUNCIL OF 19 DECEMBER 1972 ON THE SAFEGUARD MEASURES PROVIDED FOR IN THE AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE REPUBLIC OF ICELAND<sup>59</sup>**

As regards Regulation (EEC) No 2843/72, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>60</sup>.

Accordingly, Regulation (EEC) No 2843/72 is amended as follows:

1. Article 1 is replaced by the following:

"The Commission may decide to refer to the Joint Committee established by the Agreement between the European Economic Community and the Republic of Iceland hereinafter referred to as the 'Agreement' for the purpose of taking the measures provided for in Articles 23, 25, 25a and 27 of the Agreement. Where necessary, the Commission shall adopt these measures in accordance with the procedure referred to in Article 7(2)."
2. In Article 2(1), the second sentence is replaced by the following:

"Where necessary, the Commission shall adopt safeguard measures in accordance with the procedure referred to in Article 7(2)."
3. Article 4 is replaced by the following:
  - "1. Where exceptional circumstances require immediate action in the situations referred to in Articles 25, 25a and 27 of the Agreement or in the case of export

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<sup>58</sup> OJ L 84, 31.3.2009, p. 1.

<sup>59</sup> OJ L 301, 31.12.1972, p. 162.

<sup>60</sup> OJ L...

aids that have a direct and immediate effect on trade, the precautionary measures provided for in Article 28(3)(e) of the Agreement may be adopted by the Commission in accordance with the procedure referred to in Article 7(2). In cases of urgency, Article 7(3) shall apply.

2. Where the Commission is asked to take action by a Member State, it shall take a decision within a maximum period of five working days of receipt of the request."
4. The following Article 7 is added:

*"Article 7*

**Committee**

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>61</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."
- 3. REGULATION (EEC) NO 1692/73 OF THE COUNCIL OF 25 JUNE 1973 ON THE SAFEGUARD MEASURES PROVIDED FOR IN THE AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE KINGDOM OF NORWAY<sup>62</sup>**

As regards Regulation (EEC) No 1692/73, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>63</sup>.

Accordingly, Regulation (EEC) No 1692/73 is amended as follows:

1. Article 1 is replaced by the following:

"The Commission may decide to refer to the Joint Committee established by the Agreement between the European Economic Community and the Kingdom of Norway hereinafter referred to as the 'Agreement' for the purpose of taking the measures provided for in Articles 22, 24, 24a and 26 of the Agreement. Where necessary, the Commission shall adopt these measures in accordance with the procedure referred to in Article 7(2)."

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<sup>61</sup> OJ L 84, 31.3.2009, p. 1.

<sup>62</sup> OJ L 171, 26.6.1973, p. 103.

<sup>63</sup> OJ L...

2. In Article 2(1), the second sentence is replaced by the following:

"Where necessary, the Commission shall adopt safeguard measures in accordance with the procedure referred to in Article 7(2)."

3. Article 4 is replaced by the following:

"1. Where exceptional circumstances require immediate action in the situations referred to in Articles 24, 24a and 26 of the Agreement or in the case of export aids that have a direct and immediate effect on trade, the precautionary measures provided for in Article 27(3)(e) of the Agreement may be adopted by the Commission in accordance with the procedure referred to in Article 7(2). In cases of urgency, Article 7(3) shall apply.

2. Where the Commission is asked to take action by a Member State, it shall take a decision within a maximum period of five working days of receipt of the request."

4. The following Article 7 is added:

*"Article 7*

**Committee**

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>64</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].

2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.

3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

4. **COUNCIL REGULATION (EC) NO 3286/94 OF 22 DECEMBER 1994 LAYING DOWN COMMUNITY PROCEDURES IN THE FIELD OF THE COMMON COMMERCIAL POLICY IN ORDER TO ENSURE THE EXERCISE OF THE COMMUNITY'S RIGHTS UNDER INTERNATIONAL TRADE RULES, IN PARTICULAR THOSE ESTABLISHED UNDER THE AUSPICES OF THE WORLD TRADE ORGANIZATION<sup>65</sup>**

As regards Regulation (EC) No 3286/94, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>66</sup>.

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<sup>64</sup> OJ L 84, 31.3.2009, p. 1.

<sup>65</sup> OJ L 349, 31.12.1994, p. 71.

<sup>66</sup> OJ L...

Accordingly, Regulation (EC) No 3286/94 is amended as follows:

1. Article 5(3) is replaced by the following:

"Where it becomes apparent that the complaint does not provide sufficient evidence to justify initiating an investigation, then the complainant shall be so informed."
2. Article 6(4) is replaced by the following:

"Where it becomes apparent that the request does not provide sufficient evidence to justify initiating an investigation, then the Member State shall be so informed."
3. Article 7 is amended as follows:
  - (a) The heading of the Article is replaced by the heading: "Committee"
  - (b) Paragraph (1) is replaced by the following:
    - "1. (a) The Commission shall be assisted by the Trade Barriers Committee, hereinafter referred to as the 'Committee'. That Committee shall be a Committee within the meaning of Regulation (EU) No [...]/2011.
    - (b) Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."
  - (c) In paragraph 2, the first two sentences are deleted.
  - (d) Paragraphs 3 and 4 are deleted.
4. In Article 8(1), the introductory phrase is replaced by the following:

"1. Where it is apparent to the Commission that there is sufficient evidence to justify initiating an examination procedure and that it is necessary in the interest of the Union, the Commission shall act as follows:"
5. Article 9(2)(a) is replaced by the following:

"2. (a) Neither the Commission, nor Member States, nor the officials of any of these, shall reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis by a party to an examination procedure, without specific permission from the party submitting such information."
6. Article 11 is amended as follows:
  - (a) Paragraph 1 is replaced by the following:
    - "1. When it is found as a result of the examination procedure that the interests of the Union do not require any action to be taken, the procedure shall be terminated by the Commission acting in accordance with the procedure referred to in Article 7(1)(b)."
  - (b) Paragraph 2(a) is replaced by the following:

"2. (a) When, after an examination procedure, the third country or countries concerned take(s) measures which are considered satisfactory, and therefore no action by the Union is required, the procedure may be suspended by the Commission acting in accordance with the procedure referred to in Article 7(1)(b).";

(c) Paragraph 3 is replaced by the following:

"3. Where, either after an examination procedure, or at any time before, during and after an international dispute settlement procedure, it appears that the most appropriate means to resolve a dispute arising from an obstacle to trade is the conclusion of an agreement with the third country or countries concerned, which may change the substantive rights of the Union and of the third country or countries concerned, the procedure shall be suspended by the Commission acting in accordance with the procedure referred to in Article 7(1)(b), and negotiations shall be carried out according to the provisions of Article 207 of the Treaty."

7. Article 13 is replaced by the following:

*"Article 13*

**Decision-making procedures**

1. Where the Union, as a result of a complaint pursuant to Articles 3 or 4, or of a referral pursuant to Article 6, follows formal international consultation or dispute settlement procedures, decisions relating to the initiation, conduct or termination of such procedures shall be taken by the Commission.
2. Where the Union, having acted in accordance with Article 12(2), has to take a decision on the measures of commercial policy to be adopted pursuant to Article 11(2)(c) or pursuant to Article 12, it shall act, without delay, in accordance with Article 207 of the Treaty and, as appropriate, any applicable procedures."

8. Article 14 is deleted.

**5. COUNCIL REGULATION (EC) NO 385/96 OF 29 JANUARY 1996 ON PROTECTION AGAINST INJURIOUS PRICING OF VESSELS<sup>67</sup>**

As regards Regulation (EC) No 385/96, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>68</sup>.

Accordingly, Regulation (EC) No 385/96 is amended as follows:

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<sup>67</sup> OJ L 56, 6.3.1996, p. 21.

<sup>68</sup> OJ L...

1. Article 5(11) is replaced by the following:

"Without prejudice to Article 15(2), where it is apparent that there is sufficient evidence to justify initiating a proceeding the Commission shall do so within 45 days of the lodging of the complaint, or, in case of initiation pursuant to paragraph 8, no later than six months from the time the sale of the vessel was known or should have been known, and shall publish a notice in the *Official Journal of the European Union*. Where insufficient evidence has been presented, the complainant shall, be so informed within 45 days of the date on which the complaint is lodged with the Commission."

2. Article 7 is amended as follows:

- (a) Paragraph 2 is replaced by the following:

"Where measures are unnecessary the investigation or proceedings shall be terminated. The Commission shall terminate the investigation in accordance with the procedure referred to in Article 10(2)."

- (b) Paragraph 4 is replaced by the following:

"Where the facts as finally established show that there is injurious pricing and injury caused thereby, an injurious pricing charge shall be imposed on the shipbuilder by the Commission, in accordance with the procedure referred to in Article 10(2). The amount of the injurious pricing charge shall be equal to the margin of injurious pricing established. The Commission shall take the necessary measures for the implementation of its decision, in particular the collection of the injurious pricing charge."

3. In Article 8, the first paragraph is replaced by the following:

"The investigation may be terminated without the imposition of an injurious pricing charge if the shipbuilder definitively and unconditionally voids the sale of the injuriously priced vessel or complies with an alternative equivalent remedy accepted by the Commission."

4. Article 9(1) is replaced by the following:

"1. If the shipbuilder concerned does not pay the injurious pricing charge imposed under Article 7, countermeasures under the form of denial of loading and unloading rights shall be imposed by the Commission on the vessels built by the shipbuilder in question."

5. Article 10 is replaced by the following:

*"Article 10*

**Committee**

1. The Commission shall be assisted by the Injurious Pricing of Vessels Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."
6. Article 13(5) is replaced by the following:
- “5. The Commission and Member States, or the officials of any of these, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission and Member States, or any internal documents prepared by the authorities of the Union or its Member States, shall not be divulged except as specifically provided for in this Regulation.”
7. Article 14(3) is replaced by the following:
- “3. Disclosure shall be effected in writing. It shall be effected, due regard being had to the need to protect confidential information, as soon as possible and, normally, not less than one month before a definitive decision. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission but, where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible.”
- 6. COUNCIL REGULATION (EC) NO 2271/96 OF 22 NOVEMBER 1996 PROTECTING AGAINST THE EFFECTS OF THE EXTRA-TERRITORIAL APPLICATION OF LEGISLATION ADOPTED BY A THIRD COUNTRY, AND ACTIONS BASED THEREON OR RESULTING THEREFROM<sup>69</sup>**

As regards Regulation (EC) No 2271/96, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty for the purpose of amending the Annex to that Regulation.

The measures necessary for the implementation of Regulation (EC) No 2271/96 should be adopted in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers<sup>70</sup>.

Accordingly, Regulation (EC) No 2271/96 is amended as follows:

1. In Article 1, the second subparagraph is replaced by the following:

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<sup>69</sup> OJ L 309, 29.11.1996, p. 1.

<sup>70</sup> OJ L...

"Acting in accordance with the relevant provisions of the Treaty and notwithstanding the provisions of Article 7(c), the Commission may adopt delegated acts in accordance with Articles 11a, 11b and 11c to add or delete laws to or from the Annex to this Regulation."

2. Article 8 is replaced by the following:

*"Article 8*

1. For the purposes of the implementation of Article 7(b) and (c), the Commission shall be assisted by the Committee on Extra-territorial Legislation. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."

3. The following Articles 11a, 11b and 11c are inserted:

*"Article 11a*

1. The powers to adopt the delegated acts referred to in Article 1 shall be conferred on the Commission for an indeterminate period of time.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 11b and 11c.

*Article 11b*

1. The delegation of power referred to in the second subparagraph of Article 1 may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.



*Article 11c*

1. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.
2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act."

**7. COUNCIL REGULATION (EC) NO 1515/2001 OF 23 JULY 2001 ON THE MEASURES THAT MAY BE TAKEN BY THE COMMUNITY FOLLOWING A REPORT ADOPTED BY THE WTO DISPUTE SETTLEMENT BODY CONCERNING ANTI-DUMPING AND ANTI-SUBSIDY MATTERS<sup>71</sup>**

As regards Regulation (EC) No 1515/2001, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>72</sup>.

Accordingly, Regulation (EC) No 1515/2001 is amended as follows:

1. Article 1 is amended as follows:

(a) In paragraph 1, the introductory phrase is replaced by the following:

"1. Whenever the DSB adopts a Report concerning a Union measure taken pursuant to Council Regulation (EC) No 1225/2009, Regulation (EC) No 597/2009 or to this Regulation ("disputed measure"), the Commission may take one or more of the following measures, whichever it considers appropriate in accordance with the procedure referred to in Article 3a(2)."

(b) Paragraph 3 is replaced by the following:

"3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measures under paragraph 1, such review shall be initiated by the Commission."

(c) Paragraph 4 is replaced by the following:

"4. Insofar as it is appropriate to suspend the disputed or amended measure, such suspension shall be granted for a limited period of time by the Commission, acting in accordance with the procedure referred to in Article 3a(2)."

2. Article 2 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. The Commission may also take any of the measures mentioned in Article 1(1) in order to take into account the legal interpretations made in a report adopted by the DSB with regard to a non-disputed measure, if it considers this appropriate."

(b) Paragraph 3 is replaced by the following:

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<sup>71</sup> OJ L 201, 26.7.2001, p. 10.

<sup>72</sup> OJ L...

"3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measures under paragraph 1, such review shall be initiated by the Commission."

(c) Paragraph 4 is replaced by the following:

"4. Insofar as it is appropriate to suspend the non-disputed or amended measure, such suspension shall be granted for a limited period of time by the Commission, acting in accordance with the procedure referred to in Article 3a(2)."

3. The following Article 3a is inserted:

*"Article 3a*

1. The Commission shall be assisted by the Anti-Dumping Committee established by Article 15(1) of Council Regulation (EC) No 1225/2009 or by the Anti-subsidy Committee established by Article 25(1) of Council Regulation (EC) No 597/2009 as the case may be. These Committees shall be Committees within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."
8. **COUNCIL REGULATION (EC) NO 2248/2001 OF 19 NOVEMBER 2001 ON CERTAIN PROCEDURES FOR APPLYING THE STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF CROATIA, OF THE OTHER PART AND FOR APPLYING THE INTERIM AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF CROATIA**<sup>73</sup>

As regards Regulation (EC) No 2248/2001, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>74</sup>.

Accordingly, Regulation (EC) No 2248/2001 is amended as follows:

1. Article 7a is amended as follows:

(a) The following paragraphs 3a and 3b are inserted:

"3a. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.

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<sup>73</sup> OJ L 304, 21.11.2001, p. 1.

<sup>74</sup> OJ L...

3b. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

(b) The first subparagraph of paragraph 6 is replaced by the following:

"On the completion of the consultations, and if no other arrangement proves possible, the Commission may decide in accordance with the procedure referred to in Article 7a(3a) either not to act or to adopt appropriate measures provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement. In cases of urgency, Article 7a(3b) shall apply."

(c) Paragraphs 7, 8 and 9 are deleted.

2. Article 7b is replaced by the following:

*"Article 7b*

### **Exceptional and critical circumstances**

Where exceptional and critical circumstances arise within the meaning of Article 25(4)(b) and Article 26(4) of the Interim Agreement, and thereafter Article 38(4)(b) and Article 39(4) of the Stabilisation and Association Agreement, the Commission may take immediate measures as provided for in Articles 25 and 26 of the Interim Agreement, and thereafter Articles 38 and 39 of the Stabilisation and Association Agreement, in accordance with the procedure referred to in Article 7a(3a). In cases of urgency, Article 7a(3b) shall apply.

If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request."

3. In Article 7e, the second sentence of paragraph 1 is replaced by the following:

"Where necessary it shall adopt safeguard measures in accordance with the procedure referred to in Article 7a(3a), except in the cases of aid to which Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>75</sup> applies, where measures shall be taken according to the procedures laid down in that Regulation."

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<sup>75</sup> OJ L 188, 18.7.2009, p. 93.

**9. COUNCIL REGULATION (EC) NO 153/2002 OF 21 JANUARY 2002 ON CERTAIN PROCEDURES FOR APPLYING THE STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, OF THE OTHER PART, AND FOR APPLYING THE INTERIM AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA<sup>76</sup>,**

As regards Regulation (EC) No 153/2002, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>77</sup>.

Accordingly, Regulation (EC) No 153/2002 is amended as follows:

1. Article 7a is amended as follows:

(a) The following paragraphs 3a and 3b are inserted:

"3a. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.

3b. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

(b) The first subparagraph of paragraph 6 is replaced by the following:

"On the completion of the consultations, and if no other arrangement proves possible, the Commission may decide in accordance with the procedure referred to in Article 7a(3a) either not to act or to adopt appropriate measures provided for in Articles 24 and 25 of the Interim Agreement, and thereafter Articles 37 and 38 of the Stabilisation and Association Agreement. In cases of urgency, Article 7a(3b) shall apply."

(c) Paragraphs 7, 8 and 9 are deleted.

2. Article 7b is replaced by the following:

*"Article 7b*

**Exceptional and critical circumstances**

Where exceptional and critical circumstances arise within the meaning of Article 24(4)(b) and Article 25(4) of the Interim Agreement, and thereafter Article 37(4)(b) and Article 38(4) of the Stabilisation and Association Agreement, the Commission may take immediate measures as provided for in Articles 24 and 25 of the Interim Agreement, and thereafter Articles 37 and

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<sup>76</sup> OJ L 25, 29.01.2002 p. 16.

<sup>77</sup> OJ L...

38 of the Stabilisation and Association Agreement, in accordance with the procedure referred to in Article 7a(3a). In cases of urgency, Article 7a(3b) shall apply.

If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request."

3. In Article 7e, the second sentence of paragraph 1 is replaced by the following:

"Where necessary it shall adopt safeguard measures in accordance with the procedure referred to in Article 7a(3a), except in the cases of aid to which Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>78</sup> applies, where measures shall be taken according to the procedures laid down in that Regulation."

**10. COUNCIL REGULATION (EC) NO 427/2003 OF 3 MARCH 2003 ON A TRANSITIONAL PRODUCT-SPECIFIC SAFEGUARD MECHANISM FOR IMPORTS ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA AND AMENDING REGULATION (EC) NO 519/94 ON COMMON RULES FOR IMPORTS FROM CERTAIN THIRD COUNTRIES<sup>79</sup>**

As regards Regulation (EC) No 427/2003, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>80</sup>.

Accordingly, Regulation (EC) No 427/2003 is amended as follows:

1. Article 5(4) is replaced by the following:

"Where it is apparent that there is sufficient evidence to justify initiating a proceeding and any consultations under paragraph 3 have not led to a mutually satisfactory solution, the Commission shall publish a notice in the *Official Journal of the European Union*."

2. Article 7 is amended as follows:

(a) In paragraph 1, the second and third sentences are replaced by the following:

"The Commission shall take such provisional measures in accordance with the procedure referred to in Article 15(2). In cases of urgency, Article 15(3) shall apply."

(b) Paragraph 3 is deleted.

3. Article 8 is replaced by the following:

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<sup>78</sup> OJ L 188, 18.7.2009, p. 93.

<sup>79</sup> OJ L 65, 8.3.2003, p. 1.

<sup>80</sup> OJ L...

*"Article 8*

**Termination without measures**

Where bilateral safeguard measures are deemed unnecessary the investigation or proceeding shall be terminated in accordance with the procedure referred to in Article 15(2)."

4. Article 9 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. If the consultations referred to in paragraph 1 of this Article do not lead to a mutually satisfactory solution within 60 days of the receipt of a request for consultations, a definitive safeguard or trade diversion measure shall be imposed in accordance with the procedure referred to in Article 15(2)."

(b) Paragraphs 3 to 6 are deleted.

5. Article 12(4) is replaced by the following:

"Where the Commission considers that any safeguard measure should be revoked or amended, it shall revoke or amend the safeguard measures."

6. Article 14(4) is replaced by the following:

"4. In the Union interest, measures imposed pursuant to this Regulation may be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, in accordance with the procedure referred to in Article 15(2). Measures may only be suspended where market conditions have temporarily changed to an extent that market disruption would be unlikely to resume as a result of the suspension. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer applicable."

7. Article 15 is replaced by the following:

*"Article 15*

**Committee**

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>81</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].

2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.

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<sup>81</sup> OJ L 84, 31.3.2009, p. 1.

3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.
  4. Pursuant to Article 3(5) of Regulation (EU) No [.../2011] where recourse is made to written procedure, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No [.../2011] so requests."
8. Article 17(5) is replaced by the following:
- "5. The Commission and the Member States, or the officials of any of these, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission and Member States, or any information relating to consultations made pursuant to Article 12, or consultations described in Article 5(3) and Article 9(1), or any internal documents prepared by the authorities of the Union or its Member States, shall not be divulged to the public or any party to the proceeding except as specifically provided for in this Regulation."
9. In Article 18(4), the fourth sentence is replaced by the following:
- "Disclosure shall not prejudice any subsequent decision which may be taken by the Commission but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible."
10. In Article 19, paragraphs 5 and 6 are replaced by the following:
- "5. The Commission shall examine the information which is properly submitted and the extent to which it is representative, and the results of such analysis, together with an opinion on its merits, shall be transmitted to the Committee.
6. The parties which have acted in conformity with paragraph 2 may request the facts and considerations on which final decisions are likely to be taken to be made available to them. Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Commission."
- 11. COUNCIL REGULATION (EC) NO 452/2003 OF 6 MARCH 2003 ON MEASURES THAT THE COMMUNITY MAY TAKE IN RELATION TO THE COMBINED EFFECT OF ANTI-DUMPING OR ANTI-SUBSIDY MEASURES WITH SAFEGUARD MEASURES<sup>82</sup>**

As regards Regulation (EC) No 452/2003, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying

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<sup>82</sup> OJ L 69, 13.3.2003, p. 8.



down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>83</sup>.

Accordingly, Regulation (EC) No 452/2003 is amended as follows:

1. In Article 1(1), the introductory phrase is replaced by the following:

"Where the Commission considers that a combination of anti-dumping or anti-subsidy measures with safeguard tariff measures on the same imports could lead to effects greater than is desirable in terms of the Union's trade defence policy, it may adopt such of the following measures as it deems appropriate in accordance with the procedure referred to in Article 2a(2):".

2. The following Article 2a is inserted:

*"Article 2a*

1. The Commission shall be assisted by the Anti-Dumping Committee established by Article 15(1) of Council Regulation (EC) No 1225/2009<sup>84</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."

**12. COUNCIL REGULATION (EC) NO 673/2005 OF 25 APRIL 2005 ESTABLISHING ADDITIONAL CUSTOMS DUTIES ON IMPORTS OF CERTAIN PRODUCTS ORIGINATING IN THE UNITED STATES OF AMERICA<sup>85</sup>**

As regards Regulation (EC) No 673/2005, the power to repeal the regulation is given to the Council. This power should be deleted, and Article 207 of the Treaty should apply to the repeal of this Regulation.

Accordingly, Article 7 of Regulation (EC) No 673/2005 is deleted.

**13. COUNCIL REGULATION (EC) NO 1616/2006 OF 23 OCTOBER 2006 ON CERTAIN PROCEDURES FOR APPLYING THE STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF ALBANIA, OF THE OTHER PART, AND FOR APPLYING THE INTERIM AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF ALBANIA<sup>86</sup>**

As regards Regulation (EC) No 1616/2006, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the

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<sup>83</sup> OJ L...

<sup>84</sup> OJ L 343, 22.12.2009, p. 51.

<sup>85</sup> OJ L 110, 30.4.2005, p. 1.

<sup>86</sup> OJ L 300, 31.10.2006, p. 1.

Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>87</sup>.

Accordingly, Regulation (EC) No 1616/2006 is amended as follows:

1. In Article 7, the third, fourth and fifth paragraphs are replaced by the following:  
"The Commission shall take such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
2. Article 8(2) is replaced by the following:  
"2. The Commission shall take such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
3. The following Article 8a is inserted:

*"Article 8a*

**Committee**

1. For the purposes of Articles 7 and 8 the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>88</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

**14. 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<sup>89</sup>**

As regards Regulation (EC) No 1528/2007, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union for the purpose of amending Annex I to that Regulation.

The measures necessary for the implementation of Regulation (EC) No 1528/2007 should be adopted in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning

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<sup>87</sup> OJ L...

<sup>88</sup> OJ L 84, 31.3.2009, p. 1.

<sup>89</sup> OJ L 348, 31.12.2007, p. 1.

mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>90</sup>.

Accordingly, Regulation (EC) No 1528/2007 is amended as follows:

1. Article 2 is amended as follows:
  - (a) Paragraph 2 is replaced by the following:
    - "2. The Commission shall amend Annex I by means of delegated acts in accordance with Articles 24a, 24b and 24c to add regions or states from the ACP Group of States which have concluded negotiations on an agreement between the Union and that region or state which at least meets the requirements of Article XXIV GATT 1994."
  - (b) In paragraph 3, the introductory phrase is replaced by the following:
    - "3. Such region or state will remain on the list in Annex I unless the Commission adopts a delegated act in accordance with Articles 24a, 24b and 24c amending Annex I to remove a region or state from that Annex, in particular where:"
2. Article 14 is amended as follows:
  - (a) Paragraph 3 is replaced by the following:
    - "3. Where it is apparent that there is sufficient evidence to justify the initiation of a proceeding, the Commission shall publish a notice in the *Official Journal of the European Union*. Initiation shall take place within one month of the receipt of information from a Member State."
  - (b) In paragraph 4, the first sentence is replaced by the following:
    - "4. If the Commission takes the view that the circumstances set out in Article 12 exist, it shall immediately notify the region or states listed in Annex I concerned of its intention to initiate an investigation."
3. Article 16 is amended as follows:
  - (a) In paragraph 1, the second and third sentences are replaced by the following:
    - "Provisional measures shall be adopted in accordance with the procedure referred to in Article 21(2). In cases of urgency, Article 21(3) shall apply."
  - (b) In paragraph 2, the second sentence is deleted.
  - (c) Paragraph 4 is deleted.
4. Article 17 is replaced by the following:

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<sup>90</sup> OJ L...

*"Article 17*

**Termination of investigation and proceeding without measures**

Where bilateral safeguard measures are deemed unnecessary the investigation and proceeding shall be terminated in accordance with the procedure referred to in Article 21(2)."

5. Article 18 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. If the consultations referred to in paragraph 1 do not lead to a mutually satisfactory solution within thirty days of the matter's being referred to the region or state concerned, a decision to impose definitive bilateral safeguard measures shall be taken by the Commission in accordance with the procedure referred to in Article 21(2) within twenty working days of the end of the consultation period."

(b) Paragraphs 3 and 4 are deleted.

6. Article 20(2) is replaced by the following:

"2. The decision to impose surveillance shall be taken by the Commission in accordance with the procedure referred to in Article 21(2)."

7. Article 21 is replaced by the following:

*"Article 21*

**Committee**

1. For the purposes of this Chapter, the Commission shall be assisted by the Committee established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>91</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].

2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.

3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.

4. In the case of products falling under CN code 1701, the Committee referred to in paragraph 1 shall be assisted by the Committee established by Article 195 of Council Regulation (EC) No 1234/2007<sup>92</sup>."

8. The following Articles 24a, 24b and 24c are inserted:

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<sup>91</sup> OJ L 84, 31.3.2009, p. 1.

<sup>92</sup> OJ L 299, 16.11.2007, p. 1.

*"Article 24a*

**Exercise of the delegation**

1. The powers to adopt the delegated acts referred to in Article 2(2) and (3) shall be conferred on the Commission for an indeterminate period of time.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 24b and 24c.

*Article 24b*

**Revocation of the delegation**

1. The delegation of power referred to in Article 2(2) and (3) may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

*Article 24c*

**Objections to delegated acts**

1. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.
2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to the adopted delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act."

**15. COUNCIL REGULATION (EC) NO 140/2008 OF 19 NOVEMBER 2007 ON CERTAIN PROCEDURES FOR APPLYING THE STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF MONTENEGRO, OF THE OTHER PART, AND FOR APPLYING THE INTERIM AGREEMENT BETWEEN THE EUROPEAN COMMUNITY, OF THE ONE PART, AND THE REPUBLIC OF MONTENEGRO, OF THE OTHER PART<sup>93</sup>**

As regards Regulation (EC) No 140/2008, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>94</sup>.

Accordingly, Regulation (EC) No 140/2008 is amended as follows:

1. In Article 7, the third, fourth and fifth paragraphs are replaced by the following:  
  
"The Commission shall take such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
2. Article 8(2) is replaced by the following:  
  
"2. The Commission shall take such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
3. The following Article 8a is inserted:

*"Article 8a*

**Committee**

1. For the purposes of Articles 7 and 8 the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>95</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."
- 16. COUNCIL REGULATION (EC) NO 55/2008 OF 21 JANUARY 2008 INTRODUCING AUTONOMOUS TRADE PREFERENCES FOR THE REPUBLIC OF MOLDOVA AND**

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<sup>93</sup> OJ L 43, 19.2.2008, p. 1.

<sup>94</sup> OJ L...

<sup>95</sup> OJ L 84, 31.3.2009, p. 1.

**AMENDING REGULATION (EC) No 980/2005 AND COMMISSION DECISION  
2005/924/EC<sup>96</sup>**

As regards Regulation (EC) No 55/2008, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>97</sup>.

Accordingly, Regulation (EC) No 55/2008 is amended as follows:

1. Article 10 is amended as follows:

(a) The introductory phrase of paragraph 1 is replaced by the following:

"1. Where the Commission finds that there is sufficient evidence of fraud, irregularities or systematic failure by Moldova to comply, or to ensure compliance, with the rules of origin of products and the procedures related thereto and to provide administrative cooperation as referred to in Article 2(1), or a failure to comply with any of the other conditions defined in Article 2(1), it may take measures in accordance with the procedure referred to in Article 11a(2) to suspend in whole or in part the preferential arrangements provided for in this Regulation for a period of not more than six months, provided that it has first:"

(b) Paragraph 2 is deleted.

2. Article 11(1) is replaced by the following

"1. Where a product originating in Moldova is imported on terms which cause, or threaten to cause, serious difficulties to a Union producer of like or directly competing products, Common Customs Tariff duties on that product may be reintroduced at any time by the Commission in accordance with the procedure referred to in Article 11a(2)."

3. The following Article 11a is inserted:

*"Article 11a*

**Committee**

1. For the purposes of Article 11, the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>98</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].

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<sup>96</sup> OJ L 20, 24.1.2008, p. 1.

<sup>97</sup> OJ L...

<sup>98</sup> OJ L 84, 31.3.2009, p. 1.

2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."

**17. COUNCIL REGULATION (EC) NO 594/2008 OF 16 JUNE 2008 ON CERTAIN PROCEDURES FOR APPLYING THE STABILISATION AND ASSOCIATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND BOSNIA AND HERZEGOVINA, OF THE OTHER PART, AND FOR APPLYING THE INTERIM AGREEMENT ON TRADE AND TRADE-RELATED MATTERS BETWEEN THE EUROPEAN COMMUNITY, OF THE ONE PART, AND BOSNIA AND HERZEGOVINA, OF THE OTHER PART<sup>99</sup>**

As regards Regulation (EC) No 594/2008, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>100</sup>.

Accordingly, Regulation (EC) No 594/2008 is amended as follows:

1. In Article 7, the third, fourth and fifth paragraphs are replaced by the following:  
"The Commission shall adopt such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
2. Article 8(2) is replaced by the following:  
"2. The Commission shall adopt such measures in accordance with the procedure referred to in Article 8a(2). In cases of urgency, Article 8a(3) shall apply."
3. The following Article 8a is inserted:

*"Article 8a*

**Committee**

1. For the purposes of Articles 7 and 8 the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>101</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

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<sup>99</sup> OJ L 169, 30.6.2008, p. 1.

<sup>100</sup> OJ L...

<sup>101</sup> OJ L 84, 31.3.2009, p. 1.



**18. 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<sup>102</sup>**

As regards Regulation (EC) No 732/2008, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>103</sup>.

Accordingly, Regulation (EC) No 732/2008 is amended as follows:

1. Article 16 is amended as follows:

(a) In paragraph 3, the introductory phrase is replaced by the following:

"3. The Commission may suspend the preferential arrangements provided for in this Regulation, in respect of all or of certain products originating in a beneficiary country, in accordance with the procedure referred to in Article 27(6), where it considers that there is sufficient evidence that temporary withdrawal would be justified for the reasons referred to in paragraphs 1 and 2, provided that it has first:"

(b) Paragraph 4 is deleted.

2. Article 17 is replaced by the following:

*"Article 17*

1. Where the Commission or a Member State receives information that may justify temporary withdrawal and where the Commission or a Member State considers that there are sufficient grounds for an investigation, it shall inform the Committee referred to in Article 27.

2. The Commission may decide, within one month and in accordance with the procedure referred to in Article 27(5), to initiate an investigation."

3. Article 19 is amended as follows:

(a) In paragraph 3, the second sentence is replaced by the following:

"The Commission shall notify the beneficiary country concerned of this decision and shall publish a notice in the *Official Journal of the European Union*, announcing that it intends to temporarily withdraw the preferential arrangements in respect of all or of certain products originating in a beneficiary country, unless, before the end of the period, the beneficiary country concerned makes a commitment to take the measures

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<sup>102</sup> OJ L 211, 6.8.2008, p. 1.

<sup>103</sup> OJ L...

necessary to conform, in a reasonable period of time, with the conventions referred to in Part A of Annex III."

(b) Paragraph 4 is replaced by the following:

"4. Where the Commission considers temporary withdrawal to be necessary, it shall decide in accordance with the procedure referred to in Article 27(6). In the case referred to in paragraph 3, the Commission shall act at the end of the period referred to in that paragraph."

(c) Paragraph 5 is replaced by the following:

"5. Where the Commission decides on temporary withdrawal, such decision shall enter into force six months after it is taken, unless the Commission decides before then that the reasons justifying it no longer prevail."

4. Article 20 is amended as follows:

(a) Paragraph 5 is replaced by the following:

"5. The investigation shall be completed within six months from the date of publication of the notice referred to in paragraph 2. The Commission may, in the case of exceptional circumstances, extend this period in accordance with the procedure referred to in Article 27(5)."

(b) Paragraph 6 is replaced by the following:

"6. The Commission shall take a decision within one month, in accordance with the procedure referred to in Article 27(6). Such decision shall enter into force within one month from the date of its publication in the Official Journal of the European Union."

(c) Paragraph 7 is replaced by the following:

"7. Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may, in accordance with the procedure referred to in Article 27(7), take any preventive measure which is strictly necessary."

5. Article 21 is replaced by the following:

"Where imports of products included in Annex I to the Treaty cause, or threaten to cause, serious disturbance to Union markets, in particular to one or more of the outermost regions, or these markets' regulatory mechanisms, the Commission, on its own initiative or at the request of a Member State, may suspend the preferential arrangements in respect of the products concerned in accordance with the procedure referred to in Article 27(6) after consulting the management committee for the relevant common market organisation."

6. Article 22(2) is deleted.

7. In Article 27, the following paragraphs 6 and 7 are added:

- "6. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
7. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."

**19. COUNCIL REGULATION (EC) NO 597/2009 OF 11 JUNE 2009 ON PROTECTION AGAINST SUBSIDISED IMPORTS FROM COUNTRIES NOT MEMBERS OF THE EUROPEAN COMMUNITY<sup>104</sup>**

As regards Regulation (EC) No 597/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>105</sup>.

Accordingly, Regulation (EC) No 597/2009 is amended as follows:

1. Article 10(11) is replaced by the following:

"11. Where it is apparent that there is sufficient evidence to justify initiating proceedings, the Commission shall do so within 45 days of the lodging of the complaint and shall publish a notice in the *Official Journal of the European Union*. Where insufficient evidence has been presented, the complainant shall be so informed within 45 days of the date on which the complaint is lodged with the Commission."

2. Article 11(9) is replaced by the following:

"9. For proceedings pursuant to Article 10(11), an investigation shall, whenever possible, be concluded within one year. In any event, such investigations shall be concluded within 13 months of initiation, in accordance with the findings made pursuant to Article 13 for undertakings or the findings made pursuant to Article 15 for definitive action. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 8 months after the initiation of the investigation, to extend this time limit, for a period up to, but in no case longer than, 18 months."

3. Article 12 is amended as follows:

- (a) In paragraph 1, the second subparagraph is replaced by the following:

"The provisional duties shall be imposed no earlier than 60 days, and no later than 9 months, from the initiation of the proceedings. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 8 months after the initiation of the investigation, to extend this time limit, to a period up to, but in no case longer than, 12 months."

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<sup>104</sup> OJ L 188, 18.7.2009, p. 93.

<sup>105</sup> OJ L...

(b) Paragraph 3 is replaced by the following:

"3. The Commission shall adopt provisional measures in accordance with the procedure referred to in Article 25(3)."

(c) Paragraph 5 is deleted.

4. Article 13 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Upon condition that a provisional affirmative determination of subsidisation and injury has been made, the Commission may accept satisfactory voluntary undertakings offers under which:

- (a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or
- (b) any exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies, so that the Commission is satisfied that the injurious effect of the subsidies is thereby eliminated.

In such a case and as long as such undertakings are in force, the provisional duties imposed by the Commission in accordance with Article 12(3) and the definitive duties imposed in accordance with Article 15(1) shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings and in any subsequent amendment of such decision.

Price increases under such undertakings shall not be higher than is necessary to offset the amount of countervailable subsidies, and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to the Union industry.";

(b) Paragraph 5 is replaced by the following:

"5. Where undertakings are accepted the investigation shall be terminated. The Commission shall terminate the investigation in accordance with the procedure referred to in Article 25(2).";

(c) In paragraph 9, the first subparagraph is replaced by the following:

"9. In case of breach or withdrawal of undertakings by any party to the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 12 or the definitive duty which has been imposed in accordance with Article 15(1), shall apply, provided that the exporter

concerned, or the country of origin and/or export has, except in the case of withdrawal of the undertaking by the exporter or such country, been given an opportunity to comment.";

(d) Paragraph 10 is replaced by the following:

"10. A provisional duty may be imposed in accordance with Article 12 on the basis of the best information available, where there is reason to believe that an undertaking is being breached, or in case of breach or withdrawal of an undertaking where the investigation which led to the undertaking has not been concluded."

5. Article 14(2) is replaced by the following:

"Where protective measures are unnecessary the investigation or proceedings shall be terminated. The Commission shall terminate the investigation in accordance with the procedure referred to in Article 25(2)."

6. Article 15(1) is amended as follows:

(a) The first subparagraph is replaced by the following:

"1. Where the facts as finally established show the existence of countervailable subsidies and injury caused thereby, and the Union interest calls for intervention in accordance with Article 31, a definitive countervailing duty shall be imposed by the Commission acting in accordance with the procedure referred to in Article 25(2). Where provisional duties are in force, the Commission shall initiate this procedure no later than one month before the expiry of such duties.";

(b) The second and third subparagraphs are deleted.

7. In Article 16(2), the first subparagraph is replaced by the following:

"2. Where a provisional duty has been applied and the facts as finally established show the existence of countervailable subsidies and injury, the Commission shall decide, irrespective of whether a definitive countervailing duty is to be imposed, what proportion of the provisional duty is to be definitively collected."

8. In Article 20, the second subparagraph is replaced by the following:

"Such a review shall be initiated after Union producers have been given an opportunity to comment."

9. In Article 21(4), the first subparagraph is replaced by the following:

"4. The Commission shall decide whether and to what extent the application should be granted, or it may decide at any time to initiate an interim review, whereupon the information and findings from such review, carried out in accordance with the provisions applicable for such reviews, shall be used to determine whether and to what extent a refund is justified."

10. Article 22 is amended as follows:

(a) In paragraph 1, the second subparagraph is replaced by the following:

"Reviews carried out pursuant to Articles 18 and 19 shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review. In any event, reviews pursuant to Articles 18 and 19 shall be concluded within 15 months of initiation. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 9 months after the initiation of the investigation, to extend this time limit, for a period up to, but in no case longer than, 18 months."

(b) In paragraph 1 the fifth subparagraph is deleted;

(c) Paragraph 2 is replaced by the following:

"2. Reviews pursuant to Articles 18, 19 and 20 shall be initiated by the Commission."

11. Article 23 is amended as follows:

(a) In paragraph 4, the first subparagraph is replaced by the following:

"Investigations shall be initiated pursuant to this Article on the initiative of the Commission or at the request of a Member State or of any interested party on the basis of sufficient evidence regarding the factors set out in paragraphs 1, 2 and 3. Initiations shall be made by Commission Regulation which may also instruct the customs authorities to make imports subject to registration in accordance with Article 24(5) or to request guarantees."

(b) In paragraph 4, the third subparagraph is replaced by the following:

"If the facts as finally ascertained justify the extension of measures, this shall be done by the Commission acting in accordance with the procedure referred to in Article 25(2)."

(c) In paragraph 6, the fourth subparagraph is replaced by the following:

"These exemptions are granted by decision of the Commission and shall remain valid for the period and under the conditions set down therein."

12. Article 24 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"4. In the Union interest, measures imposed pursuant to this Regulation may be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, by the Commission acting in accordance with the procedure referred to in Article 25(2).

Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume

as a result of the suspension, and provided that the Union industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time, be reinstated if the reason for suspension is no longer applicable."

(b) The first subparagraph of paragraph 5 is replaced by the following:

"The Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration."

13. Article 25 is replaced by the following:

"Committee

1. The Commission shall be assisted by the Anti-subsidy Committee, referred to as the Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.
4. Pursuant to Article 3(5) of Regulation (EU) No [.../2011] where recourse is made to written procedure, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No [.../2011] so requests."

14. Article 29(5) is replaced by the following:

"5. The Commission and the Member States, or the officials of any of these, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission and Member States, or any internal documents prepared by the authorities of the Union or its Member States, shall not be divulged except as specifically provided for in this Regulation."

15. Article 30 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"Final disclosure shall be given in writing. It shall be made, due regard being had to the protection of confidential information, as soon as possible and, normally, no later than one month prior to the initiation of the procedures set out in Articles 14 or 15. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter."

Disclosure shall not prejudice any subsequent decision which may be taken by the Commission but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible."

(b) Paragraph 5 is replaced by the following:

"Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter. A shorter period can be set whenever a final disclosure has already been made."

16. Article 31 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"4. The parties which have acted in conformity with paragraph 2 may provide comments on the application of any provisional duties. Such comments shall be received within 15 days of the application of such measures if they are to be taken into account and they, or appropriate summaries thereof, shall be made available to other parties who shall be entitled to respond to such comments".

(b) Paragraph 5 is replaced by the following:

"5. The Commission shall examine the information which is properly submitted and the extent to which it is representative, and the results of such analysis, together with an opinion on its merits, shall be transmitted to the Committee."

(c) In paragraph 6, the second sentence is replaced by the following:

"Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Commission."

## **20. COUNCIL REGULATION (EC) NO 260/2009 OF 26 FEBRUARY 2009 ON THE COMMON RULES FOR IMPORTS<sup>106</sup>**

As regards Regulation (EC) No 260/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>107</sup>.

Accordingly, Regulation (EC) No 260/2009 is amended as follows:

1. Article 3 is deleted.

2. Article 4 is replaced by the following:

"Committee

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<sup>106</sup> OJ L 84, 31.3.2009, p. 1.

<sup>107</sup> OJ L...



1. The Commission shall be assisted by a Committee on Safeguards, referred to as the Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.
  4. Pursuant to Article 3(5) of Regulation (EU) No [.../2011] where recourse is made to written procedure, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No [.../2011] so requests."
3. Article 6 is amended as follows:
- (a) In paragraph 1 the first sentence is replaced by the following:

"Where it is apparent to the Commission that there is sufficient evidence to justify the initiation of an investigation, the Commission shall initiate an investigation within one month of receipt of information from a Member State and publish a notice in the *Official Journal of the European Union*."
  - (b) In paragraph 2, the first subparagraph is replaced by the following:

"The Commission shall seek all information it deems to be necessary and, where it considers it appropriate endeavour to check this information with importers, traders, agents, producers, trade associations and organisations."
  - (c) Paragraph 7 is replaced by the following:

"Where it appears to the Commission that there is insufficient evidence to justify an investigation, it shall inform the Member States of its decision within one month of receipt of the information from the Member States."
4. Article 7(2) is replaced by the following:
- "2. Where the Commission considers, within nine months of the initiation of the investigation, that no Union surveillance or safeguard measures are necessary, the investigation shall be terminated within a month."
5. Article 9(2) is replaced by the following:
- "2. Neither the Commission, nor the Member States, nor the officials of any of these shall reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis without specific permission from the supplier of such information."
6. Article 11(2) is replaced by the following:

"2. The decision to impose surveillance shall be taken by the Commission according to the procedure laid down in Article 16(6)."

7. Article 13 is replaced by the following:

*"Article 13*

Where import of a product has not been made subject to prior Union surveillance the Commission, in accordance with Article 18, may introduce surveillance confined to imports into one or more regions of the Union."

8. In Article 16, paragraphs 6 and 7 are replaced by the following:

"6. Where intervention by the Commission has been requested by a Member State, the Commission, acting in accordance with the procedure referred to in Article 4(2) shall take a decision within a maximum of five working days of receipt of such a request. In cases of urgency, Article 4(3) shall apply."

9. Article 17 is replaced by the following:

*"Article 17*

Where the interests of the Union so require, Commission, acting in accordance with the procedure referred to in Article 4(2) and the terms of Chapter III, may adopt appropriate measures to prevent a product being imported into the Union in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competing products.

Article 16(2) to (5) shall apply."

10. Article 21(2) is replaced by the following:

"2. Where the Commission considers that any surveillance or safeguard measure referred to in Articles 11, 13, 16, 17 and 18 should be revoked or amended, it shall, acting in accordance with the procedure referred to in Article 4(2), revoke or amend the measures."

11. Article 23 is replaced by the following:

*"Article 23*

Where the interests of the Union so require, the Commission, acting in accordance with the procedure referred to in Article 4(2), may adopt appropriate measures to allow the rights and obligations of the Union or of all its Member States, in particular those relating to trade in commodities, to be exercised and fulfilled at international level."

**21. COUNCIL REGULATION (EC) NO 625/2009 OF 7 JULY 2009 ON COMMON RULES FOR IMPORTS FROM CERTAIN THIRD COUNTRIES<sup>108</sup>**

As regards Regulation (EC) No. 625/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>109</sup>.

Accordingly, Regulation (EC) No 625/2009 is amended as follows:

1. Article 3 is deleted.
2. Article 4 is replaced by the following:

"Committee

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>110</sup>, referred to as the Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.
  4. Pursuant to Article 3(5) of Regulation (EU) No [.../2011] where recourse is made to written procedure, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No [.../2011] so requests."
3. Article 5 is amended as follows:

- (a) In paragraph 1 the first sentence is replaced by the following:

"Where it is apparent to the Commission that there is sufficient evidence to justify an investigation, the Commission shall initiate an investigation within one month of receipt of information from a Member State and publish a notice in the Official Journal of the European Union."

- (b) In paragraph 2, the first subparagraph is replaced by the following:

"The Commission shall seek all information it deems to be necessary and, where it considers it appropriate endeavour to check this information with importers, traders, agents, producers, trade associations and organisations."

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<sup>108</sup> OJ L 185, 17.7.2009, p. 1.

<sup>109</sup> OJ L...

<sup>110</sup> OJ L 84, 31.3.2009, p. 1.

(c) Paragraph 6 is replaced by the following:

"6. Where it appears to the Commission that there is insufficient evidence to justify an investigation, it shall inform the Member States of its decision within one month of receipt of the information from the Member States."

4. In Article 6(2) the first sentence is replaced by the following:

"Where, within nine months of the initiation of the investigation, the Commission considers that no Union surveillance or safeguard measures are necessary, the investigation shall be terminated."

5. Article 7(2) is replaced by the following:

"2. The Commission, the Member States and the officials of any of these, shall not reveal any information of a confidential nature received in pursuance of this Regulation, or any information provided on a confidential basis, without specific permission from the supplier of such information."

6. Article 12 is replaced by the following:

*"Article 12*

Where import of a product has not been made subject to prior Union surveillance, the Commission may introduce, in accordance with Article 17, surveillance confined to imports into one or more regions of the Union."

7. Article 15 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"The measures adopted shall be communicated forthwith to the Member States and shall take effect immediately.";

(b) Paragraphs 4, 5 and 6 are replaced by the following:

"4. Where intervention by the Commission has been requested by a Member State, the Commission, acting in accordance with the procedure referred to in Article 4(2), shall take a decision within a maximum of five working days of receipt of such a request. In cases of urgency, Article 4(3) shall apply."

8. Article 16(1) is replaced by the following:

"1. The Commission may, in particular in the situation referred to in Article 15(1), adopt appropriate measures acting in accordance with the procedure referred to in Article 4(2)."

9. Article 18(2) is replaced by the following:

"2. Where the Commission considers that any surveillance or safeguard measure referred to in Chapters IV and V should be revoked or amended, it shall revoke or amend the measures."

**22. COUNCIL REGULATION (EC) NO 1061/2009 OF 19 OCTOBER 2009 ESTABLISHING COMMON RULES FOR EXPORTS<sup>111</sup>**

As regards Regulation (EC) No 1061/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>112</sup>.

Accordingly, Regulation (EC) No 1061/2009 is amended as follows:

1. Article 3 is deleted.
2. Article 4 is replaced by the following:
  - "1. The Commission shall be assisted by a Committee on common rules for exports, referred to as the Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
  2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
  3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof."
3. Article 6 is amended as follows:
  - (a) Paragraph 1 is replaced by the following:
    - "1. In order to prevent a critical situation from arising on account of a shortage of essential products, or to remedy such a situation, and where Union interests call for immediate intervention, the Commission, acting at the request of a Member State or on its own initiative, and taking account of the nature of the products and of the other particular features of the transactions in question, may make the export of a product subject to the production of an export authorisation, the granting of which shall be governed by such provisions and subject to such limits as the Commission shall lay down in accordance with the procedure referred to in Article 4(2). In cases of urgency, Article 4(3) shall apply.";
  - (b) In paragraph 4, the second sentence is deleted;
  - (c) Paragraphs 5 and 6 are replaced by the following:
    - "5. Where the Commission has acted pursuant to paragraph 1, it shall, not later than 12 working days following the entry into force of the measure which it has taken decide whether to adopt appropriate measures as provided for in Article 7. If, at the end of 6 weeks following the entry

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<sup>111</sup> OJ L 291, 7.11.2009, p. 1.

<sup>112</sup> OJ L...

into force of the measure, no measures have been adopted, the measure in question shall be deemed revoked."

4. In Article 7(1), the introductory phrase is replaced by the following:

"Where the interests of the Union so require, the Commission may, acting in accordance with the procedure referred to in Article 4(2), adopt appropriate measures:"

5. Article 8(2) is replaced by the following:

"2. Where the Commission considers that any measure provided for in Article 6 or in Article 7 should be revoked or amended, it shall act in accordance with the procedure referred to in Article 4(2)."

**23. 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<sup>113</sup>**

As regards Regulation (EC) No 1215/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>114</sup>.

Accordingly, Regulation (EC) No 1215/2009 is amended as follows:

1. Article 2 is amended as follows:

(a) In paragraph 2, the second subparagraph is deleted;

(b) The following paragraph 3 is added:

"3. In the event of non-compliance in respect of paragraphs 1 or 2, the benefits of this Regulation for the country may be suspended, in whole or in part, in accordance with the procedure referred to in Article 8a(2)."

2. The following Article 8a is inserted:

*"Article 8a*

**Committee**

1. For the purposes of Articles 2 and 10, the Commission shall be assisted by the Western Balkans Implementation Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].

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<sup>113</sup> OJ L 328, 15.12.2009, p. 1.

<sup>114</sup> OJ L...

2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply."
3. Article 10 is amended as follows:
  - (a) Paragraph 1 is amended as follows:
    - (1) Point (a) is replaced by the following:

"(a) informed the Western Balkans Implementation Committee;"
    - (2) The following second subparagraph is added:

"The measures referred to in the first subparagraph shall be adopted in accordance with the procedure referred to in Article 8a(2).";
  - (b) Paragraph 2 is deleted;
  - (c) Paragraph 3 is replaced by the following:

"On conclusion of the period of suspension, the Commission shall decide either to terminate the provisional suspension measure or to extend the suspension measure in accordance with paragraph 1."

**24. COUNCIL REGULATION (EC) NO 1225/2009 OF 30 NOVEMBER 2009 ON PROTECTION AGAINST DUMPED IMPORTS FROM COUNTRIES NOT MEMBERS OF THE EUROPEAN COMMUNITY<sup>115</sup>**

As regards Regulation (EC) No 1225/2009, the Commission should be empowered to adopt the measures necessary for the implementation of that Regulation in accordance with Regulation (EU) No [xxxx/2011] of [xx/yy/2011] of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>116</sup>.

Accordingly, Regulation (EC) No 1225/2009 is amended as follows:

1. In Article 2(7) the final subparagraph is replaced by the following:

"A determination by the Commission whether the producer meets the abovementioned criteria shall be made within six months of the initiation of the investigation after the Union industry has been given an opportunity to comment. This determination shall remain in force throughout the investigation."
2. Article 5(9) is replaced by the following:

"Where it is apparent that there is sufficient evidence to justify initiating a proceeding, the Commission shall do so within 45 days of the lodging of the complaint and shall publish a notice in the *Official Journal of the European Union*."

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<sup>115</sup> OJ L 343, 22.12.2009, p. 51.

<sup>116</sup> OJ L...

Where insufficient evidence has been presented, the complainant shall be so informed within 45 days of the date on which the complaint is lodged with the Commission."

3. Article 6(9) is replaced by the following:

"For proceedings initiated pursuant to Article 5(9), an investigation shall, whenever possible, be concluded within one year. In any event, such investigations shall be concluded within 15 months of initiation, in accordance with the findings made pursuant to Article 8 for undertakings or the findings made pursuant to Article 9 for definitive action. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 9 months after the initiation of the investigation, to extend this time limit, for a period up to, but in no case longer than, 18 months."

4. Article 7 is amended as follows:

- (a) Paragraph 1 is replaced by the following:

"Provisional duties may be imposed if proceedings have been initiated in accordance with Article 5, if a notice has been given to that effect and interested parties have been given an adequate opportunity to submit information and make comments in accordance with Article 5(10), if a provisional affirmative determination has been made of dumping and consequent injury to the Union industry, and if the Union interest calls for intervention to prevent such injury. The provisional duties shall be imposed no earlier than 60 days and no later than 9 months from the initiation of the proceedings. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 8 months after the initiation of the investigation, to extend this time limit, to a period up to, but in no case longer than, 12 months."

- (b) Paragraph 4 is replaced by the following:

"4. The Commission shall take provisional measures in accordance with the procedure referred to in Article 15(3)."

- (c) Paragraph 6 is deleted.

5. Article 8 is amended as follows:

- (a) Paragraph 1 is replaced by the following:

"1. Upon condition that a provisional affirmative determination of dumping and injury has been made, the Commission may accept satisfactory voluntary undertaking offers submitted by any exporter to revise its prices or to cease exports at dumped prices, if it is satisfied that the injurious effect of the dumping is thereby eliminated. In such a case and as long as such undertakings are in force, provisional duties imposed by the Commission in accordance with Article 7(1) or definitive duties imposed in accordance with Article 9(4) as the case may be shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting



undertakings, as subsequently amended. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they should be less than the margin of dumping if such increases would be adequate to remove the injury to the Union industry.";

(b) Paragraph 5 is replaced by the following:

"5. Where undertakings are accepted, the investigation shall be terminated. The Commission shall terminate the investigation in accordance with the procedure referred to in Article 15(2)."

(c) In paragraph 9, the first subparagraph is replaced by the following:

"9. In case of breach or withdrawal of undertakings by any party to the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 7 or the definitive duty which has been imposed in accordance with Article 9(4) shall automatically apply, provided that the exporter concerned has, except where he himself has withdrawn the undertaking, been given an opportunity to comment.";

(d) Paragraph 10 is replaced by the following:

"10. A provisional duty may be imposed in accordance with Article 7 on the basis of the best information available, where there is reason to believe that an undertaking is being breached, or in case of breach or withdrawal of an undertaking where the investigation which led to the undertaking has not been concluded."

6. Article 9 is amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. Where protective measures are unnecessary the investigation or proceeding shall be terminated. The Commission shall terminate the investigation in accordance with the procedure referred to in Article 15(2).";

(b) Paragraph 4 is replaced by the following:

"4. Where the facts as finally established show that there is dumping and injury caused thereby, and the Union interest calls for intervention in accordance with Article 21, a definitive anti-dumping duty shall be imposed by the Commission acting in accordance with the procedure referred to in Article 15(2). Where provisional duties are in force, the Commission shall initiate this procedure no later than one month before the expiry of such duties. The amount of the anti-dumping duty shall not exceed the margin of dumping established but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Union industry."

7. In Article 10(2), the first sentence is replaced by the following:
- "2. Where a provisional duty has been applied and the facts as finally established show that there is dumping and injury, the Commission shall decide, irrespective of whether a definitive anti-dumping duty is to be imposed, what proportion of the provisional duty is to be definitively collected."
8. Article 11 is amended as follows:
- (a) In paragraph 4, the first sentence of the third subparagraph is replaced with:
- "A review for a new exporter shall be initiated and carried out on an accelerated basis after Union producers have been given an opportunity to comment."
- (b) In paragraph 5, the first and second subparagraphs are replaced with the following:
- "The relevant provisions of this Regulation with regard to procedures and the conduct of investigations, excluding those relating to time-limits, shall apply to any review carried out pursuant to paragraphs 2, 3 and 4. Reviews carried out pursuant to paragraphs 2 and 3 shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review. In any event, reviews pursuant to paragraphs 2 and 3 shall be concluded within 15 months of initiation. In exceptional cases, having regard to the complexity of the investigation, the Commission may decide, no later than 9 months after the initiation of the investigation, to extend this time limit, for a period up to, but in no case longer than, 18 months. Reviews pursuant to paragraph 4 shall in all cases be concluded within nine months of the date of initiation. If a review carried out pursuant to paragraph 2 is initiated while a review under paragraph 3 is ongoing in the same proceeding, the review pursuant to paragraph 3 shall be concluded at the same time as the review pursuant to paragraph 2."
- (c) Paragraph 6 is replaced with the following:
- "Reviews pursuant to this Article shall be initiated by the Commission. Where warranted by reviews, measures shall be repealed or maintained pursuant to paragraph 2, or repealed, maintained or amended pursuant to paragraphs 3 and 4. Where measures are repealed for individual exporters, but not for the country as a whole, such exporters shall remain subject to the proceeding and may, automatically, be reinvestigated in any subsequent review carried out for that country pursuant to this Article.";
- (d) In paragraph 8, the first sentence of the fourth subparagraph is replaced by the following:
- "The Commission shall decide whether and to what extent the application should be granted, or it may decide at any time to initiate an interim review, whereupon the information and findings from such review carried out in accordance with the provisions applicable for such reviews, shall be used to determine whether and to what extent a refund is justified."

9. Article 12 is amended as follows:

- (a) In paragraph 1, the first subparagraph is replaced by the following:

"Where the Union industry or any other interested party submit, normally within two years from the entry into force of the measures, sufficient information showing that, after the original investigation period and prior to or following the imposition of measures, export prices have decreased or that there has been no movement, or insufficient movement in the resale prices or subsequent selling prices of the imported product in the Union, the investigation may be reopened to examine whether the measure has had effects on the abovementioned prices."

- (b) Paragraph 3 is replaced by the following:

"3. Where a reinvestigation pursuant to this Article shows increased dumping, the measures in force may, be amended by the Commission acting in accordance with the procedure referred to in Article 15(2), in accordance with the new findings on export prices. The amount of the anti-dumping duty imposed pursuant to this Article shall not exceed twice the amount of the duty imposed initially."

- (c) In paragraph 4, the first and second subparagraphs are replaced by the following:

"The relevant provisions of Articles 5 and 6 shall apply to any reinvestigation carried out pursuant to this Article, except that such reinvestigation shall be carried out expeditiously and shall normally be concluded within nine months of the date of initiation of the reinvestigation. In any event, such reinvestigations shall in all cases be concluded within one year of initiation of the reinvestigation."

10. Article 13 is amended as follows:

- (a) Paragraph 3 is replaced by the following:

"Investigations shall be initiated pursuant to this Article on the initiative of the Commission or at the request of a Member State or any interested party on the basis of sufficient evidence regarding the factors set out in paragraph 1. Initiations shall be made by Commission Regulation which may also instruct the customs authorities to make imports subject to registration in accordance with Article 14(5) or to request guarantees. Investigations shall be carried out by the Commission, which may be assisted by customs authorities and shall be concluded within nine months. When the facts as finally ascertained justify the extension of measures, this shall be done by the Commission acting in accordance with the procedure referred to in Article 15(2). The extension shall take effect from the date on which registration was imposed pursuant to Article 14(5) or on which guarantees were requested. The relevant procedural provisions of this Regulation with regard to initiations and the conduct of investigations shall apply pursuant to this Article.";

- (b) In paragraph 4, the second subparagraph is replaced by the following:

"These exemptions shall be granted by decision of the Commission and shall remain valid for the period and under the conditions set down therein."

11. Article 14 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"4. In the Union interest, measures imposed pursuant to this Regulation may be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, by the Commission acting in accordance with the procedure referred to in Article 15(2). Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of the suspension, and provided that the Union industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time be reinstated if the reason for suspension is no longer applicable."

(b) In paragraph 5 the first sentence is replaced by the following

"5. The Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration."

12. Article 15 is replaced by the following:

"Committee

1. The Commission shall be assisted by the Anti-Dumping Committee. That Committee shall be a Committee within the meaning of Regulation (EU) No [.../2011].
2. Where reference is made to this paragraph, Article [5] of Regulation (EU) No [xxxx/2011] shall apply.
3. Where reference is made to this paragraph, Article [8] of Regulation (EU) No [xxxx/2011] shall apply in conjunction with Article [5] thereof.
4. Pursuant to Article 3(5) of Regulation (EU) No [.../2011] where recourse is made to written procedure, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No [.../2011] so requests."

13. Article 19(5) is replaced by the following:

"The Commission and Member States, or the officials of any of these, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission and Member States, or

any internal documents prepared by the authorities of the Union or its Member States, shall not be divulged except as specifically provided for in this Regulation."

14. Article 20 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"Final disclosure shall be given in writing. It shall be made, due regard being had to the protection of confidential information, as soon as possible and, normally, no later than one month prior to the initiation of the procedures set out in Article 9. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible."

(b) Paragraph 5 is replaced by the following:

"Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter. A shorter period can be set whenever a final disclosure has already been made."

15. Article 21 is amended as follows:

(a) Paragraph 4 is replaced by the following:

"4. The parties which have acted in conformity with paragraph 2 may provide comments on the application of any provisional duties. Such comments shall be received within 15 days of the application of such measures if they are to be taken into account and they, or appropriate summaries thereof, shall be made available to other parties who shall be entitled to respond to such comments".

(b) Paragraph 5 is replaced by the following:

"5. The Commission shall examine the information which is properly submitted and the extent to which it is representative, and the results of such analysis, together with an opinion on its merits, shall be transmitted to the Committee."

(c) In paragraph 6, the second sentence is replaced by the following:

"Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Commission."

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A  
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

**1. NAME OF THE PROPOSAL:**

Proposal for a Regulation of the European Parliament and of the Council amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures.

**2. BUDGET LINES:**

Not applicable.

**3. FINANCIAL IMPACT**

Proposal has no financial implications.

**4. ANTI-FRAUD MEASURES**

Not applicable.