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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 May 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 317 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the measures that the Union may take following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters (codification)

Delegations will find attached document COM(2014) 317 final.

In accordance with the method approved on 10 June 2003, delegations are invited to send their comments on the codification proposal by 15 September 2014 to the following addresses:

SECRETARIAT.Codification@consilium.europa.eu **AND** sj-codification@ec.europa.eu

Encl.: COM(2014) 317 final



Brussels, 28.5.2014
COM(2014) 317 final

2014/0163 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the measures that the Union may take following a report adopted by the WTO
Dispute Settlement Body concerning anti-dumping and anti-subsidy matters
(codification)**

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of 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 matters³. The new Regulation will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Entered in the legislative programme for 2014.

⁴ See Annex I to this proposal.

- .5. The codification proposal was drawn up on the basis of a preliminary consolidation, in 22 official languages, of Regulation (EC) No 1515/2001 and the instrument amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex II to the codified Regulation.

↓ 1515/2001 (adapted)

2014/0163 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the measures that the Union may take following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters (codification)

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(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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- (1) Council Regulation (EC) No 1515/2001⁶ has been substantially amended⁷. In the interests of clarity and rationality, that Regulation should be codified.

↓ 1515/2001 recital 1 (adapted)

- (2) By Council Regulation (EC) No 1225/2009⁸, common rules were laid down for protection against dumped imports from countries which are not members of the European Union .

⁵ OJ C [...], [...], p. [...].

⁶ 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 (OJ L 201, 26.7.2001, p. 10).

⁷ See Annex I.

⁸ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

↓ 1515/2001 recital 2 (adapted)

- (3) By Council Regulation (EC) No 597/2009⁹, common rules were laid down for protection against subsidised imports from countries which are not members of the European Union .
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↓ 1515/2001 recital 3

- (4) Under the Marrakesh Agreement establishing the World Trade Organisation ('WTO'), an Understanding on Rules and Procedures Governing the Settlement of Disputes ('DSU') was reached. Pursuant to the DSU, the Dispute Settlement Body ('DSB') was established.
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↓ 1515/2001 recital 4 (adapted)

- (5) With a view to permitting the Union , where it considers this appropriate, to bring a measure taken under Regulation (EC) No 1225/2009 or Regulation (EC) No 597/2009 into conformity with the recommendations and rulings contained in a report adopted by the DSB, specific provisions must be laid down .
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↓ 1515/2001 recital 5 (adapted)

- (6) The Commission may consider it appropriate to repeal, amend or adopt any other special measures with respect to measures taken under Regulation (EC) No 1225/2009 or Regulation (EC) No 597/2009, including measures which have not been the subject of dispute settlement under the DSU, in order to take account of the legal interpretations made in a report adopted by the DSB. In addition, the Commission should be able, where appropriate, to suspend or review such measures.
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↓ 1515/2001 recital 6

- (7) Recourse to the DSU is not subject to time limits. The recommendations in reports adopted by the DSB only have prospective effect. Consequently, it is appropriate to specify that any measures taken under this Regulation will take effect from the date of their entry into force, unless otherwise specified, and, therefore, do not provide any basis for the reimbursement of the duties collected prior to that date.
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↓ 37/2014 Art. 1 and Annex .7
(adapted)

- (8) The implementation of this Regulation requires uniform conditions for adopting measures following a report adopted by the DSB concerning anti-

⁹ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.7.2009, p. 93).

dumping and anti-subsidy matters. Those measures should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰.

- (9) The advisory procedure should be used for the suspension of measures for a limited period of time given the effects of such measures,

↓ 1515/2001

HAVE ADOPTED THIS REGULATION:

↓ 37/2014 Art. 1 and Annex .7(1)
(adapted)

Article 1

1. Whenever the DSB adopts a report concerning a Union measure taken pursuant to Regulation (EC) No 1225/2009, to 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 examination procedure referred to in Article 4(3):

- (a) repeal or amend the disputed measure; or
- (b) adopt any other special implementing measure deemed to be appropriate in the circumstances in order to bring the Union into conformity with the recommendations and rulings contained in the report.

2. For the purpose of taking a measure under paragraph 1, the Commission may request interested parties to provide all necessary information in order to complete the information obtained during the investigation that resulted in the adoption of the disputed measure.

3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measure under paragraph 1, that review shall be initiated by the Commission. The Commission shall provide information to the Member States once it decides to initiate a review.

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 advisory procedure referred to in Article 4(2).

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Article 2

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.
2. For the purpose of taking a measure under paragraph 1, the Commission may request interested parties to provide all necessary information in order to complete the information obtained during the investigation that resulted in the adoption of the non-disputed measure.
3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measure under paragraph 1, that review shall be initiated by the Commission. The Commission shall provide information to the Member States once it decides to initiate a review.
4. Insofar as it is appropriate to suspend the non-disputed or amended measure, that suspension shall be granted for a limited period of time by the Commission, acting in accordance with the advisory procedure referred to in Article 4(2).

Article 3

Any measures adopted pursuant to this Regulation shall take effect from the date of their entry into force and shall not serve as basis for the reimbursement of the duties collected prior to that date, unless otherwise provided for.

Article 4

1. The Commission shall be assisted by the Committee established by Article 15(1) of Regulation (EC) No 1225/2009. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

↓ 37/2014 Art. 1 and Annex 7(4)
(adapted)

Article 5

The Commission shall include information on the implementation of this Regulation in its annual report on the application and implementation of trade defence measures presented to the European Parliament and to the Council pursuant to Article 22a of Regulation (EC) No 1225/2009.

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Article 6

Regulation (EC) No 1515/2001 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

↓ 1515/2001 (adapted)

Article 7

This Regulation shall enter into force on the ☒ twentieth ☒ 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