

Regulation (EU) No 37/2014 of the European Parliament and of the Council  
of 15 January 2014 amending certain regulations relating to the common  
commercial policy as regards the procedures for the adoption of certain measures

REGULATION (EU) No 37/2014 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 January 2014

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(2) 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<sup>(1)</sup>,

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 in accordance with the 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<sup>(2)</sup>.
- (2) It is appropriate to amend those basic 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 182/2011 of the European Parliament and of the Council<sup>(3)</sup>.
- (3) The following regulations should therefore be amended accordingly:
  - Regulation (EEC) No 2841/72 of the Council<sup>(4)</sup>,
  - Regulation (EEC) No 2843/72 of the Council<sup>(5)</sup>,
  - Regulation (EEC) No 1692/73 of the Council<sup>(6)</sup>,
  - Council Regulation (EC) No 3286/94<sup>(7)</sup>,
  - Council Regulation (EC) No 385/96<sup>(8)</sup>,
  - Council Regulation (EC) No 2271/96<sup>(9)</sup>,
  - Council Regulation (EC) No 1515/2001<sup>(10)</sup>,
  - Council Regulation (EC) No 153/2002<sup>(11)</sup>,
  - Council Regulation (EC) No 427/2003<sup>(12)</sup>,
  - Council Regulation (EC) No 452/2003<sup>(13)</sup>,

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- Council Regulation (EC) No 673/2005<sup>(14)</sup>,
  - Council Regulation (EC) No 1236/2005<sup>(15)</sup>,
  - Council Regulation (EC) No 1616/2006<sup>(16)</sup>,
  - Council Regulation (EC) No 1528/2007<sup>(17)</sup>,
  - Council Regulation (EC) No 140/2008<sup>(18)</sup>,
  - Council Regulation (EC) No 55/2008<sup>(19)</sup>,
  - Council Regulation (EC) No 594/2008<sup>(20)</sup>,
  - Council Regulation (EC) No 597/2009<sup>(21)</sup>,
  - Council Regulation (EC) No 260/2009<sup>(22)</sup>,
  - Council Regulation (EC) No 625/2009<sup>(23)</sup>,
  - Council Regulation (EC) No 1061/2009<sup>(24)</sup>,
  - Council Regulation (EC) No 1225/2009<sup>(25)</sup>.
- (4) In order to ensure legal certainty, the procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation should not be affected by this Regulation,

HAVE ADOPTED THIS REGULATION:

*Article 1*

The Regulations listed in the Annex to this Regulation are hereby amended in accordance with the Annex.

*Article 2*

References to provisions of the Regulations listed in the Annex to this Regulation shall be construed as being made to those provisions as amended by this Regulation.

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

Throughout the Regulations listed in the Annex:

- (a) any reference to the words 'European Community', 'Community', 'European Communities' or 'Communities' shall be understood as a reference to the 'European Union' or 'Union';
- (b) any reference to the words 'common market' shall be understood as a reference to the 'internal market';
- (c) any reference to the words 'Committee provided for in Article 113', 'Committee provided for in Article 133', 'Committee referred to in Article 113' or 'Committee referred to in Article 133' shall be understood as a reference to 'Committee provided for in Article 207';
- (d) any reference to the words 'Article 113 of the Treaty' or 'Article 133 of the Treaty' shall be understood as a reference to 'Article 207 of the Treaty'.

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### *Article 3*

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

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

### *Article 4*

This Regulation shall enter into force on the thirtieth 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.

*Status: Point in time view as at 05/11/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 37/2014 of the European Parliament and of the Council. (See end of Document for details)*

## ANNEX

### LIST OF REGULATIONS FALLING UNDER THE COMMON COMMERCIAL POLICY AND AMENDED IN ADAPTATION TO ARTICLE 290 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION OR TO THE APPLICABLE PROVISIONS OF REGULATION (EU) No 182/2011

#### F<sup>1</sup>1. Regulation (EEC) No 2841/72

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##### Textual Amendments

- F1** Deleted by Regulation (EU) 2015/1145 of the European Parliament and of the Council of 8 July 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation (codification).

#### F<sup>2</sup>2. Regulation (EEC) No 2843/72

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##### Textual Amendments

- F2** Deleted by Regulation (EU) 2015/475 of the European Parliament and of the Council of 11 March 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Republic of Iceland (codification).

#### F<sup>3</sup>3. Regulation (EEC) No 1692/73

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##### Textual Amendments

- F3** Deleted by Regulation (EU) 2015/938 of the European Parliament and of the Council of 9 June 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Kingdom of Norway (codification).

#### F<sup>4</sup>4. Regulation (EC) No 3286/94

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##### Textual Amendments

- F4** Deleted by Regulation (EU) 2015/1843 of the European Parliament and of the Council of 6 October 2015 laying down Union procedures in the field of the common commercial policy in order to ensure the exercise of the Union's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (codification).

#### 5. Regulation (EC) No 385/96

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As regards Regulation (EC) No 385/96, the implementation of the procedures provided for in that Regulation requires uniform conditions for the adoption of measures necessary for its implementation in accordance with Regulation (EU) No 182/2011.

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

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

"11 Without prejudice to Article 15(2), where it is apparent to the Commission that there is sufficient evidence to justify initiating a proceeding, it shall do so within 45 days of the date on which the complaint was lodged, or, in the 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 was lodged with the Commission.

The Commission shall provide information to the Member States once it has determined the need to initiate such a proceeding."

(2) Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

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

(b) paragraph 4 is replaced by the following:

"4 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 examination 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, after having informed the Member States, 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.

The Commission shall provide information to the Member States once the grounds for countermeasures referred to in the first subparagraph arise."

(5) Article 10 is replaced by the following:

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## *"Article 10*

### **Committee procedure**

1 The Commission shall be assisted by the Committee established by Council Regulation (EC) No 1225/2009<sup>(26)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(27)</sup>.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(6) Article 13(5) is replaced by the following:

"5 The Commission and the Member States, including the officials of either, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from that supplier. Exchanges of information between the Commission and the Member States, or any internal documents prepared by the authorities of the Union or the 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, with 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, they 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 a decision is based on any different facts and considerations, they shall be disclosed as soon as possible."

(8) The following article is inserted:

## *"Article 14a*

### **Report**

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."

## **6. Regulation (EC) No 2271/96**

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

In order to adopt the provisions necessary for the application of that Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of adding or deleting laws to or from the Annex to that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts,

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should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

The implementation of Regulation (EC) No 2271/96 requires uniform conditions for establishing criteria for the authorisation of persons to comply fully or partially with any requirement or prohibition, including requests of foreign courts, in cases where non-compliance would seriously damage their interests or those of the Union. Those measures should be adopted in accordance with Regulation (EU) No 182/2011.

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

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

"The Commission shall be empowered to adopt delegated acts in accordance with Article 11a to add to the Annex to this Regulation laws, regulations or other legislative instruments of third countries having extraterritorial application and causing adverse effects on the interests of the Union and the interests of natural and legal persons exercising rights under the Treaty on the Functioning of the European Union, and to delete laws, regulations or other legislative instruments when they no longer have such effects."

(2) In Article 7, point (c) is deleted.

(3) Article 8 is replaced by the following:

*"Article 8*

1 For the purpose of implementing Article 7(b), the Commission shall be assisted by the Committee on Extra-territorial Legislation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in paragraph 2 of this Article. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(28)</sup>.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(4) The following article is inserted:

*"Article 11a*

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 1 shall be conferred on the Commission for a period of five years from 20 February 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 1 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 37/2014 of the European Parliament and of the Council. (See end of Document for details)*

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Article 1 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by four months at the initiative of the European Parliament or of the Council."

<sup>F5</sup>7. **Regulation (EC) No 1515/2001**

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**Textual Amendments**

**F5** Deleted by [Regulation \(EU\) 2015/476](#) of the European Parliament and of the Council of 11 March 2015 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).

<sup>F6</sup>8. **Regulation (EC) No 153/2002**

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**Textual Amendments**

**F6** Deleted by [Regulation \(EU\) 2015/941](#) of the European Parliament and of the Council of 9 June 2015 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 (codification).

<sup>F7</sup>9. **Regulation (EC) No 427/2003**

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**Textual Amendments**

**F7** Deleted by [Regulation \(EU\) 2015/755](#) of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (recast).

<sup>F8</sup>10. **Regulation (EC) No 452/2003**

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**Textual Amendments**

**F8** Deleted by [Regulation \(EU\) 2015/477](#) of the European Parliament and of the Council of 11 March 2015 on measures that the Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures (codification).



### 11. Regulation (EC) No 673/2005

As regards Regulation (EC) No 673/2005, the power to repeal that Regulation is given to the Council. That power should be removed, and Article 207 of the Treaty on the Functioning of the European Union should apply to the repeal of Regulation (EC) No 673/2005.

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

### 12. Regulation (EC) No 1236/2005

As regards Regulation (EC) No 1236/2005, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) for the purpose of amending the Annexes to that Regulation.

In order to adopt the provisions necessary for the application of Regulation (EC) No 1236/2005, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending Annexes I, II, III, IV and V to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Accordingly, Regulation (EC) No 1236/2005 is amended as follows:

- (1) Article 12 is replaced by the following:

*"Article 12*

The Commission shall be empowered to adopt delegated acts, in accordance with Article 15a, to amend Annexes I, II, III, IV and V. The data in Annex I regarding competent authorities of the Member States shall be amended on the basis of information supplied by the Member States."

- (2) Article 15 is deleted.

- (3) The following article is inserted:

*"Article 15a*

**Exercise of the delegation**

- 1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

- 2 The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of five years from 20 February 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

- 3 The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union*

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or on a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

(4) Article 16 is deleted.

<sup>F9</sup>13. **Regulation (EC) No 1616/2006**

#### Textual Amendments

**F9** Deleted by [Regulation \(EU\) 2015/939 of the European Parliament and of the Council of 9 June 2015 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 \(codification\)](#).

14. **Regulation (EC) No 1528/2007**

As regards Regulation (EC) No 1528/2007, the Commission should be empowered to adopt the measures necessary for its implementation in accordance with Regulation (EU) No 182/2011.

The advisory procedure should be used for the suspension of treatment given the nature of such suspensions. It should also be used for the adoption of surveillance and provisional safeguard measures given the effects of such measures. Where a delay in the imposition of measures would cause damage which would be difficult to repair, it is necessary to allow the Commission to adopt immediately applicable provisional measures.

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

(1) Article 5 is amended as follows:

(a) in paragraph 3, the introductory wording is replaced by the following:

"3 Where the Commission, on the basis of information provided by a Member State or on its own initiative, finds that the conditions laid down in paragraphs 1 and 2 of this Article are fulfilled, the relevant treatment may be suspended in accordance with the advisory procedure referred to in Article 21(4), provided that the Commission has first:";

(b) paragraph 4 is replaced by the following:

"4 The period of suspension under this Article shall be limited to the period necessary to protect the Union's financial interests. It shall not exceed six months, however that period may be renewed. At the end of that period, the Commission shall decide either to terminate the suspension or to extend

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the period of suspension in accordance with the advisory procedure referred to in Article 21(4).";

(c) in paragraph 6, the second subparagraph is replaced by the following:

"The decision suspending the relevant treatment shall be adopted in accordance with the advisory procedure referred to in Article 21(4).".

(2) Article 6(3) is replaced by the following:

"3 The detailed rules for implementing the tariff quotas referred to in paragraph 2 of this Article shall be determined in accordance with the examination procedure referred to in Article 21(5).".

(3) Article 7(4) is replaced by the following:

"4 The detailed rules for dividing by region and implementing the tariff quotas referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 21(5).".

(4) Article 9(5) is replaced by the following:

"5 The Commission shall adopt detailed rules on the subdivision of quantities provided for in paragraph 1 for the management of the system referred to in paragraphs 1, 3 and 4 of this Article, and on suspension decisions in accordance with the examination procedure referred to in Article 21(5).".

(5) Article 10(4) is replaced by the following:

"4 The Commission shall adopt detailed rules relating to the management of this system and to suspension decisions in accordance with the examination procedure referred to in Article 21(5).".

(6) In Article 14, paragraphs 3 and 4 are 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 date of receipt of information from a Member State.

The Commission shall provide information to the Member States concerning its analysis of the information normally within 21 days of the date on which the information was provided to the Commission.

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. The notification may be accompanied by an invitation for consultations with the aim of clarifying the situation and arriving at a mutually satisfactory solution.".

(7) Article 16 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

"1 Provisional safeguard measures shall be applied in critical circumstances where a delay would cause damage which it would be difficult to repair, pursuant to a preliminary determination that circumstances set out in Article 12 as appropriate exist. Provisional measures shall be adopted in

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accordance with the advisory procedure referred to in Article 21(4), or in cases of urgency, in accordance with Article 21(6).

2 In view of the particular situation of outermost regions and their vulnerability to any surge in imports, provisional safeguard measures shall be applied in proceedings that concern them where a preliminary determination has shown that imports have increased. Provisional measures shall be adopted in accordance with the advisory procedure referred to in Article 21(4), or, in cases of urgency, in accordance with Article 21(6).";

(b) paragraph 4 is deleted.

(8) Article 17 is replaced by the following:

*"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 examination procedure referred to in Article 21(5)."

(9) Article 18 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 30 days of the matter 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 examination procedure referred to in Article 21(5) within 20 working days of the end of the consultation period."

(b) paragraphs 3 and 4 are deleted.

(10) Article 20(2) is replaced by the following:

"2 The decision to impose surveillance shall be taken by the Commission in accordance with the advisory procedure referred to in Article 21(4)."

(11) Article 21 is replaced by the following:

*"Article 21*

**Committee procedure**

1 For the purpose of Articles 16, 17, 18 and 20 of this Regulation, the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>(29)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(30)</sup>.

2 For the purpose of Articles 4 and 5, the Commission shall be assisted by the Customs Code Committee established by Article 184 of Regulation (EC)

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No 450/2008 of the European Parliament and of the Council<sup>(31)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3 For the purpose of Articles 6, 7 and 9, the Commission shall be assisted by the Committee established by Council Regulation (EC) No. 1234/2007<sup>(32)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

4 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

5 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

6 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

(12) Article 24 is deleted.

(13) The following article is inserted:

*"Article 24b*

#### **Report**

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 Council Regulation (EC) No 1225/2009<sup>(33)</sup>.

<sup>F10</sup>15. **Regulation (EC) No 140/2008**

#### **Textual Amendments**

**F10** Deleted by [Regulation \(EU\) 2015/752 of the European Parliament and of the Council of 29 April 2015 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 \(codification\)](#).

16. **Regulation (EC) No 55/2008**

As regards Regulation (EC) No 55/2008, in order to ensure uniform conditions for its implementation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

The advisory procedure should be used for the adoption of surveillance and provisional measures and for the temporary suspension of preferential treatment given the effects of such measures and their sequential logic in relation to the adoption of definitive safeguard measures. Where a delay in the imposition of measures would cause damage which would be difficult to repair, it is necessary to allow the Commission to adopt immediately applicable provisional measures.

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

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

"3 Notwithstanding other provisions of this Regulation, in particular Article 10, if imports of agricultural products cause serious disturbance to the Union markets and their regulatory mechanisms, the Commission may take the appropriate measures by means of implementing acts. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(5)."

(2) Article 4 is replaced by the following:

*"Article 4*

**Implementation of tariff quotas for dairy products**

The detailed rules for implementing the tariff quotas for headings 0401 to 0406 shall be determined by the Commission by means of implementing acts. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(5)."

(3) Article 8 is deleted.

(4) Article 10 is amended as follows:

(a) in paragraph 1, the introductory wording 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, or to provide administrative cooperation as referred to in Article 2(1), or to comply with any of the other conditions defined in Article 2(1), it may take measures in accordance with the examination procedure referred to in Article 11a(5) 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;

(c) paragraph 3 is replaced by the following:

"3 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 the examination procedure referred to in Article 11a(5)."

(5) Article 11 is amended as follows:

(a) paragraph 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 examination procedure referred to in Article 11a(5).";

(b) paragraphs 5, 6 and 7 are replaced by the following:

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"5 The investigation shall be completed within six months after the publication of the notice referred to in paragraph 2 of this Article. The Commission may, in the case of exceptional circumstances, extend that period in accordance with the advisory procedure referred to in Article 11a(4).

6 The Commission shall take a decision within three months, in accordance with the examination procedure referred to in Article 11a(5). Such a decision shall enter into force within one month from the date of its publication.

7 Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may take any preventive measure which is strictly necessary, in accordance with the procedure referred to in Article 11a(6)."

(6) The following article is inserted:

*"Article 11a*

**Committee procedure**

1 For the purpose of Article 3(3) and Articles 11 and 12 of this Regulation, the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009<sup>(34)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(35)</sup>.

2 For the purpose of Article 4 of this Regulation, the Commission shall be assisted by the committee established by Article 195 of Council Regulation (EC) No 1234/2007<sup>(36)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3 For the purpose of Article 10 of this Regulation, the Commission shall be assisted by the committee established by Article 184 of Regulation (EC) No 450/2008 of the European Parliament and of the Council<sup>(37)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

4 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

5 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

6 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

(7) In Article 12, the second paragraph is replaced by the following:

"If Moldova does not comply with the rules of origin or does not provide administrative cooperation, as required by Article 2, for the aforementioned Chapters 17, 18, 19 and 21, or if imports of products under these Chapters subject to the preferential arrangements granted under this Regulation significantly exceed

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the usual levels of exports of Moldova, appropriate measures shall be taken in accordance with the examination procedure referred to in Article 11a(5)."

#### <sup>FII</sup> 17. **Regulation (EC) No 594/2008**

##### **Textual Amendments**

**F11** Deleted by Regulation (EU) 2015/940 of the European Parliament and of the Council of 9 June 2015 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 (codification).

#### 18. **Regulation (EC) No 597/2009**

As regards Regulation (EC) No 597/2009, its implementation requires uniform conditions for adopting provisional and definitive duties, and for the termination of an investigation without measures. Those measures should be adopted by the Commission in accordance with Regulation (EU) No 182/2011.

The advisory procedure should be used for the adoption of provisional measures given the effects of such measures and their sequential logic in relation to the adoption of definitive measures. It should also be used for the acceptance of undertakings, initiation and non-initiation of expiry reviews, suspension of measures, extension of the suspension of measures and the reinstatement of measures given the effect of such measures as compared to definitive measures. Where a delay in the imposition of measures would cause damage which would be difficult to repair, it is necessary to allow the Commission to adopt immediately applicable provisional measures.

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

(1) Article 10(8) is replaced by the following:

"8 If, in special circumstances, the Commission decides to initiate an investigation without having received a written complaint by or on behalf of the Union industry for the initiation of such an investigation, this shall be done on the basis of sufficient evidence of the existence of countervailable subsidies, injury and causal link, as described in paragraph 2, to justify such initiation. The Commission shall provide information to the Member States once it has determined the need to initiate such an investigation."

(2) 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 date of 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. The Commission shall provide information to the Member States concerning its analysis of the complaint normally within 21 days of the date on which the complaint is lodged with the Commission."

(3) Article 12 is amended as follows:



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- (a) in paragraph 1, point (b) is replaced by the following:
    - "(b) 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 the second subparagraph of Article 10(12).";
  - (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(4).";
  - (c) paragraph 5 is deleted.
- (4) Article 13 is amended as follows:
- (a) paragraph 1 is replaced by the following:
    - "1 On the condition that a provisional affirmative determination of subsidisation and injury has been made, the Commission may in accordance with the advisory procedure referred to in Article 25(2) 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 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 examination procedure referred to in Article 25(3).";
  - (c) in paragraph 9, the first subparagraph is replaced by the following:
    - "9 In the case of breach or withdrawal of undertakings by any party to the undertaking, or in the case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall be withdrawn by the Commission, 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

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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. The Commission shall provide information to the Member States when it decides to withdraw an undertaking.";

(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 the 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:

"2 Where protective measures are unnecessary the investigation or proceedings shall be terminated. The Commission shall terminate the investigation in accordance with the examination procedure referred to in Article 25(3)."

(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 examination procedure referred to in Article 25(3). 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 paragraph 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 fifth subparagraph is deleted;

(b) paragraphs 2 and 3 are replaced by the following:

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"2       Reviews pursuant to Articles 18, 19 and 20 shall be initiated by the Commission. The Commission shall decide whether or not to initiate reviews pursuant to Article 18 in accordance with the advisory procedure referred to in Article 25(2). The Commission shall also provide information to the Member States once an operator or a Member State has submitted a request justifying the initiation of a review pursuant to Articles 19 and 20 and the Commission has completed its analysis thereof, or once the Commission has itself determined that the need for the continued imposition of measures should be reviewed.

3       Where warranted by reviews, measures shall, in accordance with the examination procedure referred to in Article 25(3), be repealed or maintained pursuant to Article 18, or repealed, maintained or amended pursuant to Articles 19 and 20."

(11) Article 23 is amended as follows:

(a) in paragraph 4, the first, second and third subparagraphs are replaced by the following:

"4       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. The Commission shall provide information to the Member States once an interested party or a Member State has submitted a request justifying the initiation of an investigation and the Commission has completed its analysis thereof, or where the Commission has itself determined that there is a need to initiate an investigation.

Investigations shall be carried out by the Commission. The Commission may be assisted by customs authorities and the investigations shall be concluded within nine months.

If the facts as finally ascertained justify the extension of measures, this shall be done by the Commission acting in accordance with the examination procedure referred to in Article 25(3).";

(b) 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. The Commission shall provide information to the Member States once it has concluded its analysis."

(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 in accordance with the advisory procedure referred to in Article 25(2) for a period of nine months. The suspension may be extended for a further period,

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not exceeding one year, by the Commission acting in accordance with the advisory 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 those comments have been taken into account. Measures may at any time be reinstated in accordance with the advisory procedure referred to in Article 25(2) if the reason for suspension is no longer applicable.";

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

"5 The Commission may, after having informed the Member States in due time, 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:

#### *"Article 25*

#### **Committee procedure**

1 The Commission shall be assisted by the Committee established by Council Regulation (EC) No 1225/2009<sup>(38)</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(39)</sup>.

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.

4 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

5 Pursuant to Article 3(5) of Regulation (EU) No 182/2011, where recourse is made to the written procedure for adopting definitive measures pursuant to paragraph 3 of this Article, or for deciding on the initiation or non-initiation of expiry reviews pursuant to Article 18 of this Regulation, 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 182/2011 so request. Where recourse is made to the written procedure in other instances where there has been a discussion of the draft measure in the committee, that procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a simple majority of committee members so request. Where recourse is made to the written procedure in other instances where there has not been a discussion of the draft measure in the committee, that procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or at least a quarter of committee members so request.

6 The committee may consider any matter relating to the application of this Regulation, raised by the Commission or at the request of a Member State. Member

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States may request information and may exchange views in the committee or directly with the Commission.

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

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

(15) In Article 30, paragraphs 4 and 5 are replaced by the following:

"4 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 14 or Article 15. Where the Commission is not in a position to disclose certain facts or considerations at that time, they 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 a decision is based on any different facts and considerations, they shall be disclosed as soon as possible.

5 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 may be set whenever an additional final disclosure has to be made."

(16) Article 31 is amended as follows:

(a) paragraphs 4 and 5 are 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 25 days of the date of 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.

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 as part of the draft measure submitted pursuant to Articles 14 and 15. The views expressed in the committee should be taken into account by the Commission under the conditions provided for in Regulation (EU) No 182/2011.";

(b) 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."

(17) The following article is inserted:

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## "Article 33a

### Report

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."

#### <sup>F12</sup>19. **Regulation (EC) No 260/2009**

##### Textual Amendments

**F12** Deleted by [Regulation \(EU\) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports \(codification\)](#).

#### <sup>F7</sup>20. **Regulation (EC) No 625/2009**

#### <sup>F13</sup>21. **Regulation (EC) No 1061/2009**

##### Textual Amendments

**F13** Deleted by [Regulation \(EU\) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports \(codification\)](#).

#### 22. **Regulation (EC) No 1225/2009**

As regards Regulation (EC) No 1225/2009, its implementation requires uniform conditions for the adoption of provisional and definitive duties, and for the termination of an investigation without measures. Those measures should be adopted by the Commission in accordance with Regulation (EU) No 182/2011.

The advisory procedure should be used for the adoption of provisional measures given the effects of such measures and their sequential logic in relation to the adoption of definitive measures. It should also be used for the acceptance of undertakings, initiation and non-initiation of expiry reviews, suspension of measures, extension of the suspension of measures and the reinstatement of measures given the effect of such measures as compared to definitive measures. Where a delay in the imposition of measures would cause damage which would be difficult to repair, it is necessary to allow the Commission to adopt immediately applicable provisional measures.

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

- (1) In Article 2(7), subparagraph (c) is amended as follows:
  - (a) the words "after specific consultation of the Advisory Committee and after the Community industry" are replaced by "after the Union industry";

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- (b) a final sentence is added as follows:
- "The Commission shall provide information to the Member States concerning its analysis of claims made pursuant to subparagraph (b) normally within 28 weeks of the initiation of the investigation."
- (2) Article 5 is amended as follows:
- (a) paragraph 6 is replaced by the following:
- "6 If in special circumstances it is decided to initiate an investigation without having received a written complaint by or on behalf of the Union industry for the initiation of such an investigation, this shall be done on the basis of sufficient evidence of dumping, injury and a causal link, as described in paragraph 2, to justify such initiation. The Commission shall provide information to the Member States once it has determined the need to initiate such investigation.";
- (b) paragraph 9 is replaced by the following:
- "9 Where it is apparent that there is sufficient evidence to justify initiating a proceeding, the Commission shall do so within 45 days of the date 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. The Commission shall provide information to the Member States concerning its analysis of the complaint normally within 21 days of the date on which the complaint is lodged with the Commission."
- (3) Article 7 is amended as follows:
- (a) in paragraph 1, the words "adequate opportunities" are replaced by "an adequate opportunity";
- (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(4).";
- (c) paragraph 6 is deleted.
- (4) Article 8 is amended as follows:
- (a) paragraph 1 is replaced by the following:
- "1 On the condition that a provisional affirmative determination of dumping and injury has been made, the Commission may, in accordance with the advisory procedure referred to in Article 15(2), 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.

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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 examination procedure referred to in Article 15(3).";

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

"9 In the case of breach or withdrawal of undertakings by any party to the undertaking, or in the 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. The Commission shall provide information to the Member States when it decides to withdraw an undertaking.";

- (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 the case of breach or withdrawal of an undertaking, where the investigation which led to the undertaking has not been concluded.".

- (5) 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 examination procedure referred to in Article 15(3).";

- (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 examination procedure referred to in Article 15(3). Where provisional duties are in force, the Commission shall initiate that 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.".

- (6) In Article 10(2), the first sentence is replaced by the following:



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"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."

(7) Article 11 is amended as follows:

(a) in paragraph 4, the first sentence of the third subparagraph is replaced by the following:

"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 second subparagraph is deleted;

(c) paragraph 6 is replaced by the following:

"6 Reviews pursuant to this Article shall be initiated by the Commission. The Commission shall decide whether or not to initiate reviews pursuant to paragraph 2 of this Article in accordance with the advisory procedure referred to in Article 15(2). The Commission shall also provide information to the Member States once an operator or a Member State has submitted a request justifying the initiation of a review pursuant to paragraphs 3 and 4 of this Article and the Commission has completed its analysis thereof, or once the Commission has itself determined that the need for the continued imposition of measures should be reviewed. Where warranted by reviews, measures shall, in accordance with the examination procedure referred to in Article 15(3), be repealed or maintained pursuant to paragraph 2 of this Article, or repealed, maintained or amended pursuant to paragraphs 3 and 4 of this Article. 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 a 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. The Commission shall provide information to the Member States once it has completed its analysis of the application.".

(8) Article 12 is amended as follows:

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

"1 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

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Union, the Commission may reopen the investigation to examine whether the measure has had effects on the abovementioned prices. The Commission shall provide information to the Member States once an interested party has submitted sufficient information justifying the reopening of the investigation and the Commission has completed its analysis thereof.";

(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 examination procedure referred to in Article 15(3), 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, second subparagraph is deleted.

(9) Article 13 is amended as follows:

(a) paragraph 3 is replaced by the following:

"3 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. The Commission shall provide information to the Member States once an interested party or a Member State has submitted a request justifying the initiation of an investigation and the Commission has completed its analysis thereof, or where the Commission has itself determined that there is a need to initiate an investigation.

Investigations shall be carried out by the Commission. The Commission may be assisted by customs authorities and the investigation 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 examination procedure referred to in Article 15(3). 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 the initiation 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. The Commission shall provide information to the Member States once it has concluded its analysis.".

(10) Article 14 is amended as follows:

(a) paragraph 4 is replaced by the following:

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*Status: Point in time view as at 05/11/2015.*

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"4 In the Union interest, measures imposed pursuant to this Regulation may be suspended by a decision of the Commission in accordance with the advisory procedure referred to in Article 15(2) 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 advisory 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 those comments have been taken into account. Measures may at any time be reinstated in accordance with the advisory procedure referred to in Article 15(2) 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, after having informed the Member States in due time, 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.".

(11) Article 15 is replaced by the following:

*"Article 15*

**Committee procedure**

1 The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(40)</sup>.

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.

4 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

5 Pursuant to Article 3(5) of Regulation (EU) No 182/2011, where recourse is made to the written procedure for adopting definitive measures pursuant to paragraph 3 of this Article, or for deciding on the initiation or non-initiation of expiry reviews pursuant to Article 11(6) of this Regulation, 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 182/2011 so request. Where recourse is made to the written procedure in other instances where there has been a discussion of the draft measure in the committee, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a simple majority of committee members so request. Where recourse is made to the written procedure in other instances where there has not been a discussion of the draft measure in the committee, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or at least a quarter of committee members so request.

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6 The Committee may consider any matter relating to the application of this Regulation, raised by the Commission or at the request of a Member State. Member States may request information and may exchange views in the Committee or directly with the Commission.

(12) Article 19(5) is replaced by the following:

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

(13) In Article 20, paragraphs 4 and 5 are replaced by the following:

"4 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, they 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 a decision is based on any different facts and considerations, they shall be disclosed as soon as possible.

5 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 ten days, due consideration being given to the urgency of the matter. A shorter period may be set whenever an additional final disclosure has to be made."

(14) In Article 21, paragraphs 4, 5 and 6 are 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 25 days of the date of 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.

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 as part of the draft measure submitted pursuant to Article 9 of this Regulation. The views expressed in the committee should be taken into account by the Commission under the conditions provided for in Regulation (EU) No 182/2011.

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."

(15) The following article is inserted:

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## "Article 22a

### Report

- 1 The Commission shall, with due regard to the protection of confidential information within the meaning of Article 19, present an annual report on the application and implementation of this Regulation to the European Parliament and to the Council. The report shall include information about the application of provisional and definitive measures, the termination of investigations without measures, reinvestigations, reviews and verification visits, and the activities of the various bodies responsible for monitoring the implementation of this Regulation and fulfilment of the obligations arising therefrom.
- 2 The European Parliament may, within one month from the Commission presenting the report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation.
- 3 No later than six months after presenting the report to the European Parliament and to the Council, the Commission shall make the report public."

Joint statement by the European Parliament, the Council and the Commission regarding Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009

The European Parliament, the Council and the Commission consider that the inclusion of Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009 is justified exclusively on the basis of the specific characteristics of those Regulations before their amendment by this Regulation. As a consequence, the inclusion of a provision, such as those Articles, is exceptional to those two Regulations and is not a precedent for the drafting of future legislation.

For the sake of clarity, the European Parliament, the Council and the Commission understand that Article 15(6) of Regulation (EC) No 1225/2009 and Article 25(6) of Regulation (EC) No 597/2009 do not introduce decision-making procedures different from or additional to those provided for in Regulation (EU) No 182/2011.

Council statement on the application of Articles 3(4) and 6(2) of Regulation (EU) No 182/2011 in connection with anti-dumping and countervailing duty proceedings pursuant to Regulations (EC) No 1225/2009 and (EC) No 597/2009

Where a Member State suggests an amendment with respect to either anti-dumping or countervailing duty draft measures provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009 (the 'Basic Regulations'), in accordance with Article 3(4) or Article 6(2) of Regulation (EU) No 182/2011 it will:

- (a) ensure that the amendment is proposed in a timely manner, which respects the deadlines in the Basic Regulations and reflects the necessity for the Commission to be given sufficient time to undertake any necessary disclosure procedure, properly scrutinise the proposal, and for the Committee to examine any amended draft measure proposed;

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- (b) ensure that the proposed amendment is consistent with the Basic Regulations as interpreted by the Court of Justice of the European Union and with relevant international obligations;
- (c) provide written justification which will, as a minimum, indicate how the suggested amendment relates to the Basic Regulations and to the facts established in the investigation, but may also contain such other supporting arguments as the Member State proposing the amendment considers appropriate.

Statement by the Commission in connection with anti-dumping and countervailing duty proceedings pursuant to Regulations (EC) No 1225/2009 and (EC) No 597/2009

The Commission recognises the importance of Member States receiving information where provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009 (the "Basic Regulations") such as to enable them to contribute to fully informed decisions, and it will act to achieve that objective.

\* \* \*

For the avoidance of doubt, the Commission understands the reference to consultations in Article 8(5) of Regulation (EU) No 182/2011 as requiring the Commission, except in cases of extreme urgency, to seek the views of the Member States before adopting provisional anti-dumping or countervailing duties.

\* \* \*

The Commission will ensure that it effectively manages all aspects of anti-dumping and countervailing duty procedures provided for in Regulations (EC) No 1225/2009 and (EC) No 597/2009, including the possibility of Member States to suggest amendments, in order to ensure that the time periods laid down in, and the obligations towards interested parties created by, the Basic Regulations are respected and that any measures finally imposed are consistent with the facts established by the investigation and the Basic Regulations as interpreted by the Court of Justice of the European Union and in line with the international obligations of the Union.

Statement by the Commission on codification

The adoption of Regulation (EU) No 37/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No 38/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures will entail a substantial number of amendments to the acts in question. In order to improve the legibility of the acts concerned, the Commission will propose a codification of the acts as expeditiously as possible once those two Regulations are adopted, and at the latest by 1 June 2014.

Statement by the Commission on delegated acts

In the context of Regulation (EU) No 37/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures and Regulation (EU) No 38/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures, the Commission recalls the commitment it has made in paragraph 15 of the Framework Agreement on relations between

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the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts.

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- (1) Position of the European Parliament of 14 March 2012 ([OJ C 251 E, 31.8.2013, p. 126](#)) and position of the Council at first reading of 15 November 2013 (not yet published in the Official Journal). Position of the European Parliament of 12 December 2013 (not yet published in the Official Journal).
- (2) Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([OJ L 184, 17.7.1999, p. 23](#)).
- (3) 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](#)).
- (4) 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 ([OJ L 300, 31.12.1972, p. 284](#)).
- (5) 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 ([OJ L 301, 31.12.1972, p. 162](#)).
- (6) 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 ([OJ L 171, 27.6.1973, p. 103](#)).
- (7) 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 ([OJ L 349, 31.12.1994, p. 71](#)).
- (8) Council Regulation (EC) No 385/96 of 29 January 1996 on protection against injurious pricing of vessels ([OJ L 56, 6.3.1996, p. 21](#)).
- (9) 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 ([OJ L 309, 29.11.1996, p. 1](#)).
- (10) 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](#)).
- (11) 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 ([OJ L 25, 29.1.2002 p. 16](#)).
- (12) 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 ([OJ L 65, 8.3.2003, p. 1](#)).
- (13) 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 ([OJ L 69, 13.3.2003, p. 8](#)).
- (14) 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 ([OJ L 110, 30.4.2005, p. 1](#)).
- (15) Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment ([OJ L 200, 30.7.2005, p. 1](#)).
- (16) 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 ([OJ L 300, 31.10.2006, p. 1](#)).
- (17) 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)



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- Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements (OJ L 348, 31.12.2007, p. 1).
- (18) 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 (OJ L 43, 19.2.2008, p. 1).
  - (19) 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 (OJ L 20, 24.1.2008, p. 1).
  - (20) 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 (OJ L 169, 30.6.2008, p. 1).
  - (21) 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).
  - (22) Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).
  - (23) Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries (OJ L 185, 17.7.2009, p. 1).
  - (24) Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports (OJ L 291, 7.11.2009, p. 1).
  - (25) 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).
  - (26) 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).
  - (27) 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)."
  - (28) 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)."
  - (29) Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).
  - (30) 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).
  - (31) Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1).
  - (32) Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1)."
  - (33) 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)."
  - (34) Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).
  - (35) 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).

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- (36) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).
- (37) Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1)."
- (38) 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).
- (39) 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)."
- (40) 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)."

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