

Protection from dumped and subsidised imports

Dumping and subsidising of exports by third countries are unfair trade practices, which may cause injury to the importing country. WTO law allows countering such injury by introducing specific duties called trade defence instruments (TDI). To enable EU TDIs to address current circumstances, notably overcapacity, in the international trading environment, the European Commission has proposed to amend the Anti-Dumping (AD) Regulation and Anti-Subsidy (AS) Regulation. The European Parliament is due to vote on the provisional agreement reached in trilogue during its November plenary session.

Background

On 11 December 2016, [certain provisions](#) in China's 2001 WTO Accession Protocol expired. They had [allowed](#) WTO members to treat China as a non-market economy (NME) for the purpose of AD investigations, and thus to deviate from the [standard methodology](#) of calculating dumping margins, which uses the exporting country's domestic prices and costs to determine normal value. This lapse of WTO provisions required the EU to act.

European Commission proposal

For the AD Regulation, the Commission [proposed](#) to apply the current standard methodology to all WTO members, and the analogue methodology (which uses the costs and prices of an analogous country) to non-WTO members. However, in the event of significant distortions in exporting countries, normal value, and the dumping margin for imports from them, would be constructed on the basis of costs of production and sale, reflecting undistorted prices or benchmarks. The proposal included a non-exhaustive list of criteria to determine significant distortions. The Commission proposed to issue public reports describing the specific situation concerning the market circumstances in any given country or sector, which could be relied on by EU industries to make their case. Furthermore, transitional arrangements from the current to the new system were proposed. As for the AS Regulation, for reasons of due process and transparency, the proposal clarifies that subsidies found in the course of any given investigation or review would be taken into account.

European Parliament position

On 20 June 2017, the Committee on International Trade (INTA) adopted its [report](#) (amendments to the Commission proposal were [approved](#) by 33 votes to 3, with 2 abstentions) and voted to enter into trilogue negotiations with the Council and Commission immediately. On 3 October, at the fourth trilogue meeting, the institutions reached a [provisional agreement](#), accompanied by three draft Commission declarations and a letter. The text incorporates some of the Parliament's amendments including: the addition of new criteria to the non-exhaustive list proposed by the Commission to determine 'significant distortions', for example, situations when 'wage costs are distorted' or when bankruptcy, corporate or property laws are applied in a discriminatory manner or inadequately enforced. Moreover, compliance with international environmental and labour standards will be taken into account when an appropriate representative country has to be chosen to determine undistorted costs and prices. In line with Parliament's request, no additional burden of proof was put on EU industry; in line with WTO law, the burden of proof will be on the Commission. The provisional agreement furthermore addresses the particular concerns of SMEs, and allows EU industry and trade unions to give inputs. INTA [approved](#) the provisional agreement on 12 October 2017. The first-reading plenary vote on the agreed text is scheduled for the November I plenary.

First reading: [2016/0351\(COD\)](#); Committee responsible: INTA; Rapporteur: Salvatore Cicu (EPP, Italy). For further information, see our '[EU Legislation in Progress](#)' briefing.

