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*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council concerning the exercise of the Union's rights for the application and enforcement of international trade rules
(COM(2012)0773 – C7-0415/2012 – 2012/0359(COD))

Committee on International Trade

Rapporteur: Niccolò Rinaldi

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council concerning the exercise of the Union's rights for the application and enforcement of international trade rules
(COM(2012)0773 – C7-0415/2012 – 2012/0359(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0773),
 - having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0415/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0308/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation **Title**

Text proposed by the Commission

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the exercise of the Union's rights for the application and enforcement of international trade rules

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the exercise of the Union's rights for the application and enforcement of international trade rules **and amending Council Regulation (EC) No 3286/94**

Justification

The Regulation also amends an out-dated provision of the Trade Barriers Regulation.

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) It is essential that the Union possesses appropriate instruments to ensure the effective exercise of the Union's rights under international trade agreements, in order to safeguard its economic interests. This is particularly the case in situations where third countries enact trade restrictive measures that diminish the benefits accruing to the Union's economic operators under international trade agreements. The Union should be in a position to react swiftly and in a flexible manner in the context of the procedures and deadlines set out by the international trade agreements which it has concluded. The Union should therefore adopt legislation defining the framework for exercising the Union's rights in certain specific situations.

Amendment

(2) It is essential that the Union possesses appropriate instruments to ensure the effective exercise of the Union's rights under international trade agreements, in order to safeguard its economic interests. This is particularly the case in situations where third countries enact trade restrictive measures that diminish the benefits accruing to the Union's economic operators under international trade agreements. The Union should be in a position to react swiftly and in a flexible manner in the context of the procedures and deadlines set out by the international trade agreements which it has concluded. The Union should therefore adopt legislation defining the framework for exercising the Union's rights in certain specific situations, ***and provide adequate resources to ensure that the resources available are efficiently used for those instruments.***

Amendment 3

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The measures aimed at ensuring the effective exercise of the Union's rights should be so selected as to take into account their capacity to encourage the

third countries concerned to respect not only the rules of international trade but also their capacity to bring relief to those economic operators and Member States that have been most affected by the trade restrictive measures taken by third countries. The measures taken pursuant to this Regulation should not restrict the Union's access to raw materials vital to European industries.

Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) The WTO and other, including regional or bilateral, dispute settlement mechanisms aim at finding a positive solution to any disputes arising between the Union and the other party or parties to those agreements. The Union should, nevertheless, suspend concessions or other obligations, in accordance with those dispute settlement rules, when other avenues to find a positive solution to a dispute have proven unsuccessful. Action by the Union in such cases serves the purpose of inducing compliance of the third country concerned with the relevant international trade rules, in order to restore a situation of reciprocal benefits.

Amendment

(3) The WTO and other, including regional or bilateral, dispute settlement mechanisms aim at finding a positive solution to any disputes arising between the Union and the other party or parties to those agreements. The Union should, nevertheless, suspend concessions or other obligations, in accordance with those dispute settlement rules, when other avenues to find a positive solution to a dispute have proven unsuccessful. Action by the Union in such cases serves the purpose of inducing compliance of the third country concerned with the relevant international trade rules, in order to restore a situation of reciprocal benefits. *The Union should always use the most efficient dispute settlement mechanism available.*

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Under the WTO Agreement on Safeguards, a WTO member proposing to apply a safeguard measure or seeking the extension of a safeguard measure should endeavour to maintain a substantially equivalent level of concessions and other obligations between it and the exporting members, which would be adversely affected by such a safeguard measure. Similar rules apply in the context of other, including regional or bilateral international trade agreements concluded by the Union. The Union should take rebalancing measures by suspending concessions or other obligations in cases where the third country concerned implements no *satisfactory* adjustments. Action by the Union in such cases serves the purpose of inducing the introduction of trade-enhancing measures by third countries in order to restore a situation of reciprocal benefits.

Amendment

(4) Under the WTO Agreement on Safeguards, a WTO member proposing to apply a safeguard measure or seeking the extension of a safeguard measure should endeavour to maintain a substantially equivalent level of concessions and other obligations between it and the exporting members, which would be adversely affected by such a safeguard measure. Similar rules apply in the context of other, including regional or bilateral international trade agreements concluded by the Union. The Union should take rebalancing measures by suspending concessions or other obligations in cases where the third country concerned implements no *adequate and proportionate* adjustments. Action by the Union in such cases serves the purpose of inducing the introduction of trade-enhancing measures by third countries in order to restore a situation of reciprocal benefits.

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Article XXVIII of the GATT 1994 and the related Understanding govern the modification or withdrawal of concessions established in the tariff schedules of WTO Members. WTO members affected by any such modification are entitled, under certain conditions, to withdraw substantially equivalent concessions. The Union should adopt rebalancing measures in such cases, unless compensatory adjustments are agreed. Action by the Union would be aimed at inducing third

Amendment

(5) Article XXVIII of the GATT 1994 and the related Understanding *and Article XXI of the General Agreement on Trade in Services (GATS) and related procedures for its implementation* govern the modification or withdrawal of concessions *and commitments* established in the tariff schedules *and the schedule of specific commitments* of WTO Members. WTO members affected by any such modification are entitled, under certain conditions, to withdraw substantially

countries to implement *trade-enhancing* measures.

equivalent concessions *or commitments*. The Union should adopt rebalancing measures in such cases, unless compensatory adjustments are agreed. Action by the Union would be aimed at inducing third countries to implement measures *restoring reciprocal advantages and enhancing trade*.

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement rulings permit it.

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) *The Union should have* the possibility to enforce its rights in the area of government procurement *in view of the fact that* the WTO Agreement on Government Procurement *states that any dispute arising thereunder shall not result in the suspension of concessions or other obligations under any other covered agreement of the WTO.*

Amendment

(6) *It is essential for the Union to have* the possibility to *swiftly* enforce its rights in the area of government procurement *when a party fails to respect its commitments under* the WTO Agreement on Government Procurement *or under any bilateral or regional binding agreements. The Union's action should be aimed at ensuring the maintenance of a substantially equivalent level of concessions in the field of government procurement.*

Justification

It needs to be clarified that the adoption of procurement measures is possible not only in the context of the GPA, but also in other circumstances, particularly when an FTA partner does not respect FTA procurement obligations.

Amendment 8

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) This Regulation should ***focus on those measures where the Union has experience in their design and application***; the possibility to extend ***the scope of this Regulation to the sectors of services and intellectual property rights*** should be ***assessed in due time with regard to the specificities of each area***.

Amendment

(7) This Regulation should ***make it possible for the Union to establish a complete and effective framework to enable measures to be taken without delay***. ***However***, the possibility to extend ***its scope with new measures covering new trade areas, such as intellectual property rights***, should be ***considered as part of a study carried out at the same time as the evaluation report on the functioning of this Regulation referred to in Article 10, and should be presented to the European Parliament*** .

Amendment 9

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) The Commission should evaluate the functioning of this Regulation no later than ***three*** years after the first instance of ***its implementation*** with a view to assessing and, if necessary, improving its efficiency.

Amendment

(9) The Commission should evaluate the functioning of this Regulation no later than ***five*** years after the first instance of ***adoption of an implementing act under this Regulation*** with a view to assessing its implementation and, if necessary, improving its efficiency. ***The Commission should include in its reports on the Europe 2020 Strategy an analysis of the relevance of this Regulation, particularly as regards its ability to remove barriers to trade***.

Justification

As the existence of the Regulation itself will hopefully dissuade our trading partners from not respecting the rules of the game, a longer review clause is foreseen in case that the Commission will have the resort to enforcement mechanisms less often.

Amendment 10

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The Commission should regularly inform the European Parliament when it intends to implement commercial policy measures pursuant to this Regulation. That information should entail a detailed description of the specific case and of the envisaged measures, of the damage incurred by Union industry, the justification for and the possible impact of the envisaged measures. After the measures have been taken, the Commission should inform the European Parliament of the actual impact of the measures.

Amendment 11

Proposal for a regulation Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) When assessing the Union's general interest in respect of the adoption of enforcement measures, while pursuing a balanced approach, the Commission should take particular account of the situation of the Union's producers. The Commission should inform the European Parliament of how it has determined the Union's general interest on a case-by-case basis.

Justification

The determination of the Union's general interest is an exercise similar to the Union's interest test in anti-dumping and anti-subsidy proceedings since similar considerations on taking a balanced approach between producers and users/consumers' interests are done. Consistently with the need to develop a strategic approach to a European industrial policy, the impact on

producers needs to be given particular account.

Amendment 12

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The Commission should keep the European Parliament regularly informed, particularly when the Union has referred a matter to a dispute settlement body. After each decision by a dispute settlement body authorising the Union to take measures, the Commission should appear before the European Parliament's committee responsible for international trade to give an account of its intention to take or withhold from taking such measures. If the Union decides to take measures, the Commission should appear before the European Parliament to give an account of the measures selected.

Amendment 13

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) At the request of the European Parliament, the Commission should regularly participate in the Dispute Settlement and Enforcement Dialogue provided for in this Regulation.

Amendment 14

Proposal for a regulation Article 1 - introductory part

Text proposed by the Commission

This Regulation lays down rules and procedures in order to ensure an effective exercise of the Union's rights to suspend or withdraw concessions or other obligations under international trade agreements, with the aim of:

Amendment

This Regulation lays down rules and procedures in order to ensure an effective **and timely** exercise of the Union's rights to suspend or withdraw concessions or other obligations under international trade agreements, with the aim of:

Justification

In addition to being effective the exercise of Union's rights also needs to be timely.

Amendment 15

Proposal for a regulation Article 1 – point a

Text proposed by the Commission

(a) responding to breaches by third countries of international trade rules which affect the interests of the Union, with a view to seeking a satisfactory solution.

Amendment

(a) responding to breaches by third countries of international trade rules which affect the interests of the Union, with a view to seeking a satisfactory solution **that provides relief to the affected economic operators of the Union.**

Amendment 16

Proposal for a regulation Article 1 – point b

Text proposed by the Commission

(b) rebalancing concessions or other obligations in the trade relations with third countries, when the **import** treatment accorded to goods from the Union is

Amendment

(b) rebalancing concessions or other obligations in the trade relations with third countries, when the treatment accorded to goods **or services** from the Union is

altered.

altered.

Amendment 17

Proposal for a regulation Article 2 - point b

Text proposed by the Commission

(b) "concessions or other obligations" means tariff concessions or any other benefits that the Union committed to apply in its trade with third countries by virtue of international trade agreements to which it is a party,

Amendment

(b) "concessions or other obligations" means tariff concessions, ***specific commitments in the field of services*** or any other benefits that the Union committed to apply in its trade with third countries by virtue of international trade agreements to which it is a party,

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement rulings permit it. Therefore a definition is needed.

Amendment 18

Proposal for a regulation Article 3 - paragraph 1 - point d

Text proposed by the Commission

(d) in cases of modification of concessions by a WTO member under Article XXVIII of the General Agreement on Tariffs and Trade 1994, where no compensatory adjustments have been agreed.

Amendment

(d) in cases of modification of concessions ***or commitments*** by a WTO member under Article XXVIII of the General Agreement on Tariffs and Trade 1994 ***or Article XXI of the GATS***, where no compensatory adjustments have been agreed.

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement rulings permit it.

Amendment 19

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

1. Where action is necessary to safeguard the interests of the Union in the cases referred to in Article 3(1), the Commission shall adopt an implementing act determining the appropriate commercial policy measures. Such implementing act shall be adopted in accordance with the examination procedure referred to in Article 8(2).

Amendment

1. Where action is necessary to safeguard the interests of the Union in the cases referred to in Article 3(1), the Commission shall adopt an implementing act determining the appropriate commercial policy measures. Such implementing act shall be adopted in accordance with the examination procedure referred to in Article 8(2). ***The Commission shall duly justify to the European Parliament the choice of commercial policy measures provided for in Article 5.***

Amendment 20

Proposal for a regulation Article 4 - paragraph 2 - point d

Text proposed by the Commission

(d) Concessions withdrawn in the trade with a third country in connection with Article XXVIII of the GATT 1994 and the related Understanding shall be substantially equivalent to the concessions modified or withdrawn by that third country, in accordance with the terms established in Article XXVIII of the GATT 1994 and the related Understanding.

Amendment

(d) Concessions ***or commitments modified or*** withdrawn in the trade with a third country in connection with Article XXVIII of the GATT 1994 and the related Understanding ***or Article XXI of the GATS and related implementing procedures*** shall be substantially equivalent to the concessions ***or commitments*** modified or withdrawn by that third country, in accordance with the terms established in Article XXVIII of the GATT 1994 and the related Understanding ***or Article XXI of the GATS and related implementing procedures.***

Justification

Services should be included into the array of commercial policy measures at the disposal of

the Union as long as international or bilateral trade dispute settlement rulings permit it.

Amendment 21

Proposal for a regulation

Article 4 – paragraph 3 – point b

Text proposed by the Commission

(b) potential of the measures to provide relief to economic operators within the Union affected by third country measures;

Amendment

(b) potential of the measures to provide relief to ***Member States and*** economic operators within the Union affected by third country measures;

Amendment 22

Proposal for a regulation

Article 4 – paragraph 3 – point c

Text proposed by the Commission

(c) availability of alternative sources of supply for the products concerned, in order to avoid or minimise any negative impact on downstream industries or final consumers within the Union;

Amendment

(c) availability of alternative sources of supply for the products ***or services*** concerned, in order to avoid or minimise any negative impact on downstream industries or final consumers within the Union;

Amendment 23

Proposal for a regulation

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall outline in its proposal for an implementing act how it has determined the Union's general interest in the specific case in question.

Justification

For the sake of transparency with regard to the Commission's implementing powers, and since this is an important element pertaining to the implementation of the base Regulation, the Commission has to explain in its proposal for an implementing act how it has determined the Union's general interest.

Amendment 24

Proposal for a regulation Article 5 - point b a (new)

Text proposed by the Commission

Amendment

(ba) the suspension of the application of obligations and specific commitments in the area of trade in services, with respect to the GATS or any bilateral and regional agreements;

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement bodies permits it. Some ongoing WTO cases shows that the Union already requested countermeasure in the field of services. The choice of specific service sector should be proposed by the Commission in line with the Treaty.

Amendment 25

Proposal for a regulation Article 5 – point c – point i

Text proposed by the Commission

Amendment

(i) the exclusion from public procurement of tenders the total value of which is made up for more than 50% of goods or services originating in the third country concerned; and/or

(i) the exclusion from public procurement of tenders the total value of which is made up for more than 50% of goods or services originating in the third country concerned; ***implementing acts may set thresholds, according to the characteristics of the goods or services concerned, above which the exclusion is to apply, taking into account the provisions of Article 4(3),***

including considerations regarding administrative capacity, and the level of nullification or impairment; and/or

Amendment 26

Proposal for a regulation Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall duly justify to the European Parliament the choice of the specific commercial policy measures adopted pursuant to this Article.

Justification

This amendment draws on Rapporteur's amendment No. 14 included in the draft report and clarifies it by adding the need for the Commission to inform not only the European Parliament, but also Council, on the actual impact of the measures. It shall be pointed out that under the ordinary legislative procedure, the European Parliament and Council co-legislate on this proposed Regulation.

Amendment 27

Proposal for a regulation Article 7 - paragraph 1

Text proposed by the Commission

Amendment

1. Where, subsequently to the adoption of an implementing act pursuant to Article 4(1), the third country concerned accords **satisfactory** compensation to the Union in the cases referred to in Article 3(1)(a) and (b), the Commission may suspend the application of that implementing act for the duration of the compensation period. The suspension shall be decided in accordance with the examination procedure referred to in Article 8(2).

1. Where, subsequently to the adoption of an implementing act pursuant to Article 4(1), the third country concerned accords **adequate and proportionate** compensation to the Union in the cases referred to in Article 3(1) (a) and (b), the Commission may suspend the application of that implementing act for the duration of the compensation period. The suspension shall be decided in accordance with the examination procedure referred to in Article 8(2).

Justification

The compensation shall be adequate and proportionate.

Amendment 28

Proposal for a regulation

Article 7 - paragraph 2 - point b

Text proposed by the Commission

(b) in cases of rebalancing of concessions or other obligations following the adoption by a third country of a safeguard measure, when the safeguard measure is withdrawn or expires, or when the third country concerned accords *satisfactory* compensation to the Union subsequently to the adoption of an implementing act under Article 4(1);

Amendment

(b) in cases of rebalancing of concessions or other obligations following the adoption by a third country of a safeguard measure, when the safeguard measure is withdrawn or expires, or when the third country concerned accords ***adequate and proportionate*** compensation to the Union subsequently to the adoption of an implementing act under Article 4(1);

Justification

The compensation shall be adequate and proportionate.

Amendment 29

Proposal for a regulation

Article 7 - paragraph 2 - point c

Text proposed by the Commission

(c) in cases of modification of concessions by a WTO member under Article XXVIII of the *General Agreement on Tariffs and Trade 1994*, when the third country concerned accords satisfactory compensation to the Union subsequently to the adoption of an implementing act under Article 4(1).

Amendment

(c) in cases of ***withdrawal or*** modification of concessions ***or commitments*** by a WTO member under Article XXVIII of the ***GATT 1994 or Article XXI of the GATS***, when the third country concerned accords ***adequate and proportionate*** compensation to the Union subsequently to the adoption of an implementing act under Article 4(1).

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement bodies permits it.

Amendment 30

Proposal for a regulation

Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall duly justify to the European Parliament when it envisages suspending, modifying or terminating a measure provided for in Article 5.

Amendment 31

Proposal for a regulation

Article 9 - paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall seek information and views regarding the Union's economic interests in specific products or sectors, in the application of this Regulation, through a notice in the Official Journal of the European Union or other suitable public communication means.

1. The Commission shall seek information and views regarding the Union's economic interests in specific products, ***services*** or sectors, in the application of this Regulation, through a notice in the Official Journal of the European Union or other suitable public communication means ***and shall take those views into account.***

The notice shall indicate the period within which the information is to be submitted. That period shall not exceed two months.

Justification

Services should be included into the array of commercial policy measures at the disposal of the Union as long as international or bilateral trade dispute settlement bodies permits it. Information and views obtained shall be taken into account.

Amendment 32

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

Amendment

2. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested. ***The Commission shall duly inform the European Parliament of the outcome of such information gathering and how it intends to take account of the information when determining the Union's general interest.***

Amendment 33

Proposal for a regulation Article 9 - paragraph 4

Text proposed by the Commission

4. The supplier of information may request that information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential summary or a statement of the reasons why the information cannot be summarised.

Amendment

4. The supplier of information may request that information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential summary ***which presents the information in a generalised form*** or a statement of the reasons why the information cannot be summarised.

Justification

Self-explanatory.

Amendment 34

Proposal for a regulation Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Dispute Settlement and Enforcement dialogue

The Commission shall regularly participate in an exchange of views with the European Parliament's Committee responsible for international trade on the management of trade disputes, including ongoing cases, effects on Union industries, envisaged measures, justification and impact of the envisaged measures, and on the implementation of commercial policy measures pursuant to this Regulation.

Amendment 35

Proposal for a regulation

Article 10

Text proposed by the Commission

Amendment

No later than **three** years after the first instance of adoption of an implementing act under this Regulation, the Commission shall review its implementation and report to the European Parliament and the Council.

No later than **five** years after the first instance of adoption of an implementing act under this Regulation, the Commission shall review its implementation and report to the European Parliament and the Council.

Justification

As already the existence of the Regulation as a credible threat itself will hopefully dissuade our trading partners from not respecting the rules of the game, a longer review clause is foreseen, as it is considered that that the Commission will have the resort to enforcement mechanisms less often.

EXPLANATORY STATEMENT

The EU currently does not have a horizontal legislative framework to enforce its rights under the WTO and other international trade agreements. In a global context where the number of retaliatory actions is increasing, the proposed instrument is legitimately designed to strengthen the enforcement of the EU's trade rights, consolidate the EU's credibility and ultimately convince our trading partners to respect the rules of the game as laid down in trade agreements. The present proposal is also an element of a strategy to open up new markets for the EU and aligns the decision-making to the Lisbon Treaty.

This new instrument should also be understood in the framework of multilateral (WTO), regional and bilateral dispute settlement rules which *already* provide the right of complaining country to take the path of "last resort", i.e. defensive temporary retaliation against an offending country when this country fails to implement the rules of a dispute settlement body. Therefore there is no protectionist aim whatsoever.

Your Rapporteur's strong support for this proposal does not mean that the EU should use re-balancing measures/countermeasures more often, but it will undoubtedly facilitate their eventual use. Your Rapporteur believes that retaliation shall always come as the last resort, in line with the acclaimed quote of Pascal Lamy: "*Consult before you legislate; negotiate before you litigate; compensate before you retaliate; and comply - at any rate*".

Over recent years there have only been a handful of cases when the EU had to resort to retaliation, however an important factor in ensuring positive settlement is the existence of a credible threat. The timeframe to adopt a measure is of paramount importance. In the pre-Lisbon era the EU followed a case-by-case approach to trade retaliatory measures against a third country under the WTO Dispute Settlement Understanding (DSU) or for re-balancing under the Agreement on Safeguards. This took the form of regulations adopted by Council. In the absence of a horizontal framework, every single decision would now need to be adopted according to the ordinary legislative procedure which on average takes from 15 to 31 months.

While we should thoroughly explore possibilities for strengthening the present proposal as regards its scope, countermeasures available and the involvement of the Parliament, it is very important that the EU gets this horizontal instrument as soon as possible.

The current proposal distinguishes the scope of the regulation by reference to the specific situations which may trigger recourse to the procedures foreseen in the regulation (Article 3 and 4) and the extent of the array of commercial policy measures at the disposal of the Union when facing one of those specific situations (Article 5). While the former is widely defined - and covers in fact any type of trade dispute -, the latter is limited to goods and public procurement.

After various exchanges with practitioners, your Rapporteur shares the view that the array of commercial policy measures at the disposal of the Union should be extended in including at least the services sector.

At first, the WTO dispute settlement body already allows its Parties to conduct, either directly

or through cross-retaliation, suspension of concession in the field of services¹. There are few examples of authorisation of such suspension (like EC-Bananas III case) and some other ongoing significant trade dispute cases involving the EU would likely require the request of counter-measure in the services sector.

Second, the fact that the exclusive Community competence does not cover all services in the EU might not prevent the inclusion of services sector as a whole into the provisions of this Regulation. Should the Commission make concrete proposals in terms of commercial policy measures in the field of services by virtue of Article 8, it would have to choose only services covered by the Community competence in line with the Treaty.

Third, services sector is a fast growing economic field and its inclusion would undoubtedly strengthen the credibility of the Union to enforce its rights swiftly, on the basis of the present regulation and without having to undergo a separate ad hoc legislative procedure, especially when facing illegal actions coming from countries where services are crucial for the EU's economy. The purpose of this Regulation is to induce compliance, thus credibility is a key.

Finally, your Rapporteur considers that the proposed Regulation should provide a structured and systematic exchange of information between the Commission and the Parliament, without delaying the decision-making process.

Such a dialogue would not only focus on the whole array of the ongoing dispute settlement cases and ultimately on a decision to conduct, modify, or terminate, countermeasures, but also feature on the choice of specific commercial policy measures to be targeted in the offending country, which would potentially have a great impact on specific European industries and should then be thoroughly justified.

Last but not least, your Rapporteur considers that already the mere existence of the present regulation will present a credible threat and will hopefully dissuade our trading partners from not respecting the rules of the game. Therefore, he suggests a longer review clause, as it is expected that the Commission will have the resort to enforcement mechanisms less often.

¹ Article 22 of the WTO DSU and Article XXIII of the GATS.

PROCEDURE

Title	Exercise of the Union's rights for the application and enforcement of international trade rules		
References	COM(2012)0773 – C7-0415/2012 – 2012/0359(COD)		
Date submitted to Parliament	18.12.2012		
Committee responsible Date announced in plenary	INTA 15.1.2013		
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 15.1.2013	JURI 15.1.2013	
Not delivering opinions Date of decision	IMCO 23.1.2013	JURI 22.1.2013	
Rapporteur(s) Date appointed	Niccolò Rinaldi 23.1.2013		
Discussed in committee	24.4.2013	17.6.2013	11.7.2013
Date adopted	17.9.2013		
Result of final vote	+: –: 0:	27 3 0	
Members present for the final vote	William (The Earl of) Dartmouth, Laima Liucija Andrikienė, Maria Badia i Cutchet, Nora Berra, María Auxiliadora Correa Zamora, Andrea Cozzolino, George Sabin Cutaş, Marielle de Sarnez, Yannick Jadot, Metin Kazak, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Cristiana Muscardini, Franck Proust, Godelieve Quisthoudt-Rowohl, Niccolò Rinaldi, Helmut Scholz, Peter Šťastný, Robert Sturdy, Henri Weber, Jan Zahradil		
Substitute(s) present for the final vote	Amelia Andersdotter, Josefa Andrés Barea, Elisabeth Köstinger, Emma McClarkin, Mario Pirillo, Tokia Saïfi, Jarosław Leszek Wałęsa		
Substitute(s) under Rule 187(2) present for the final vote	Krzysztof Lisek		
Date tabled	26.9.2013		