



Plenary sitting

A8-0236/2017

27.6.2017

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union
(COM(2016)0721 – C8-0456/2016 – 2016/0351(COD))

Committee on International Trade

Rapporteur: Salvatore Cicu

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

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union

(COM(2016)0721 – C8-0456/2016 – 2016/0351(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0721),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0456/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 29 March 2017¹,
 - having regard to the resolution of the European Parliament of 12 May 2016 on China's market economy status²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinion of the Committee on Industry, Research and Energy (A8-0236/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 2

¹ Not yet published in the Official Journal

² Texts adopted, P8_TA(2016)0223

(2) Articles 2(7)(a) and 2(7)(b) of Regulation (EU) 2016/1036 stipulate the basis on which normal value should be determined in the case of imports from non-market economy countries. ***In view of developments with respect to certain*** countries that are Members of the WTO, it is appropriate that, for those countries, normal value should be determined on the basis of ***paragraphs 1 to 6a*** of Article 2 of Regulation (EU) 2016/1036, with effect from the date on which this Regulation enters into force, and subject to the provisions of this Regulation. In the case of countries which are, at the date of initiation, not Members of the WTO and listed in Annex I of Regulation (EU) 2015/755¹, normal value should be determined on the basis of paragraph 7 of Article 2 of Regulation (EU) 2016/1036, as amended by this Regulation. This Regulation should be without prejudice to establishing whether or not any WTO Member is a market economy.

¹ 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 (OJ L 123, 19.5.2015, p. 33).

(2) Articles 2(7)(a) and 2(7)(b) of Regulation (EU) 2016/1036 stipulate the basis on which normal value should be determined in the case of imports from non-market economy countries. ***For*** countries that are Members of the WTO, it is appropriate that, for those countries, normal value should be determined on the basis of paragraph 6a of Article 2 of Regulation (EU) 2016/1036, with effect from the date on which this Regulation enters into force, and subject to the provisions of this Regulation. In the case of countries which are, at the date of initiation, not Members of the WTO and listed in Annex I of Regulation (EU) 2015/755¹, normal value should be determined on the basis of paragraph 7 of Article 2 of Regulation (EU) 2016/1036, as amended by this Regulation. This Regulation should be without prejudice to establishing whether or not any WTO Member is a market economy. ***This Regulation is in accordance with the Union's obligations under international law, including a reference to Member States' commitments to the United Nations Sustainable Development Goals. Furthermore, it is without prejudice to the terms and conditions set out in protocols and other instruments in accordance with which countries have acceded to the Marrakesh Agreement establishing the WTO. In applying its rules, it is essential for the Union to coordinate and exchange information with its major trade partners.***

¹ 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 (OJ L 123, 19.5.2015, p. 33).

Amendment 2

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) In the light of experience gained in past proceedings, it is appropriate to clarify the circumstances in which significant distortions affecting to a considerable extent free market forces **may be deemed to exist**. In particular, it is appropriate to clarify that this situation **may be deemed to exist**, inter alia, when reported prices or costs, including the costs of raw materials, are not the result of free market forces **because** they are affected by government intervention. It is further appropriate to clarify that **in considering whether or not such a situation exists** regard **may** be had, inter alia, to the potential impact of the following: the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; and access to finance granted by institutions implementing public policy objectives. It is further appropriate **to provide** that the Commission services **may** issue a report describing the specific situation concerning **these** criteria in a certain country **or a certain sector; that such** report and the evidence on which it is based **may** be placed on the file of any investigation relating to that country or sector; **and that interested** parties should have ample opportunity to comment on the report and the evidence on which it is based in each investigation in which such report or evidence is used.

Amendment

(3) In the light of experience gained in past proceedings, it is appropriate to clarify the circumstances in which significant distortions affecting to a considerable extent free market forces **occur**. In particular, it is appropriate to clarify that this situation **occurs**, inter alia, when reported prices or costs, including the costs of raw materials, **energy and other factors of production**, are not the result of free market forces **as** they are affected by government intervention, **or in case of lack of compliance with core ILO Conventions, environmental and tax multilateral agreements leading to a distortion of competition**. It is further appropriate to clarify that **when assessing the existence of significant distortions** regard **should** be had, *inter alia*, to the potential impact of the following: **government influence, whether direct or indirect, over the allocation of resources and decisions and enterprises**; the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; **the lack of or discriminatory application or inadequate enforcement of a transparent and effective functioning company law which ensures adequate corporate governance; the lack of or discriminatory application or inadequate enforcement of a transparent and effective set of laws that ensure the respect of property rights and**

the operation of a functioning bankruptcy regime; wage rates are not the result of free bargaining between labour and management; the absence of a transparent set of laws produces discriminatory effects with regard to joint-ventures and foreign investments and access to finance granted by institutions implementing public policy objectives, including by sectorial subsidies, or the existence of an oligopoly or monopoly in factors of production and other circumstances which the Commission considers to be appropriate in order to evaluate the existence of significant distortions. It is further appropriate that the Commission services *should* issue a *detailed* report describing the specific situation concerning *those* criteria in a certain country or a certain sector. *For those countries for which a substantial number of anti-dumping cases have been opened, the report should be adopted by... [insert date that is the entry into force of this Regulation + 15 days].* Such report and the evidence on which it is based *should* be placed on the file of any investigation relating to that country or sector. *Interested* parties, *including Union industry and trade unions* should have ample opportunity to comment on the report and the evidence on which it is based in each investigation in which such report or evidence is used. *Such comments should be considered when deciding on producing and updating the relevant reports. The assessment of significant distortions is particularly important in the case of heterogeneous sectors in which there is a high proportion of small and medium- sized enterprises (SMEs) where evidence of sector-specific distortions are the most difficult to find. On the request of the European Parliament, a Member State or on the Commission's own initiative when circumstances in a specific country or sector have changed the Commission should initiate or update the report. The Commission should include*

an analysis on the implementation of this Regulation in its annual report on the Union's anti-dumping, anti-subsidy and safeguard activities and should present it to the European Parliament.

Amendment 3

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) It is further appropriate to recall that costs should normally be calculated on the basis of records kept by the exporter or producer under investigation. However, where there are significant distortions in the exporting country with the consequence that costs reflected in the records of the party concerned are artificially low, such costs *may* be **adjusted or** established on any reasonable basis, including information from other representative markets **or** from international prices or benchmarks. In the light of experience gained in past proceedings, it is appropriate to further clarify that, for the purposes of applying the provisions introduced by this regulation, due account should be taken of all relevant evidence, including relevant assessment reports regarding the circumstances prevailing on the domestic market of the exporting producers and the evidence on which they are based, which has been placed on the file, and upon which interested parties have had an opportunity to comment.

Amendment

(4) It is further appropriate to recall that costs should normally be calculated on the basis of **reliable** records kept by the exporter or producer under investigation. However, where there are significant distortions in the exporting country with the consequence that costs reflected in the records of the party concerned are artificially low, such costs **should** be established on any reasonable basis, including information from other representative markets, from **markets in the Union or from undistorted** international prices or benchmarks. ***If an exporting producer from a country or a sector in which there exists one or more significant distortions conclusively demonstrates that it is not directly or indirectly affected by any significant distortion and that its costs in respect of one or more individual factors of production are not distorted, those costs should be used in the construction of its normal value. Such individual findings should not influence the normal value of other producers and therefore should not be extrapolated to the*** whole country or sector. In the light of experience gained in past proceedings, it is appropriate to further clarify that, for the purposes of applying the provisions introduced by this regulation, due account should be taken of all relevant evidence, including relevant assessment reports regarding the

circumstances prevailing on the domestic market of the exporting producers and the evidence on which they are based, which has been placed on the file, and upon which interested parties have had an opportunity to comment. ***Union industry should be able to present indications as to the existence of significant distortions. Such indications should be considered when deciding on producing or updating the relevant reports. When the report shows the existence of one or more significant distortions, the report should constitute sufficient evidence in order to justify the calculation of the normal value. In any event, no additional burdens should be requested from the Union industry. The parties to the investigation should be informed shortly after initiation of the investigation about the relevant sources that the Commission intends to use, including a preliminary determination as to the existence of significant distortions and shall be given 10 working days to comment. For that purpose, interested parties should be able to access the file after they have registered on a register maintained by the Commission, including any evidence on which the investigating authority relies, without prejudice to rules on confidentiality set out in Regulation (EU) 2016/1036. A definitive determination on the existence of one or more significant distortions in the exporting country in the economy as a whole or in sector therein should be made by the Commission and disclosed to the parties no later than 60 days following the initiation of the investigation. A determination that significant distortions exist in a given country or sector should remain in effect until revoked, and such revocation should take place only if sufficient evidence has conclusively shown that that country or sector is no longer affected by significant distortions.***

Amendment 4

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Absent any other specific transitional rules regulating the matter, it is appropriate to provide for the application of this Regulation to all decisions on the initiation of proceedings, and to all proceedings, including original investigations and review investigations, initiated, on or after the date on which this Regulation enters into force, subject to Article 11(9) of Regulation (EU) 2016/1036. Furthermore, by way of specific transitional rule, and having regard to the absence of any other specific transitional rule regulating the matter, it is appropriate to provide that, in the case of a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to **paragraphs 1 to 6a** of Article 2, the reasonable period of time provided for in the first sub-paragraph of Article 11(3) of Regulation (EU) 2016/1036 should be deemed to elapse on the date on which the first expiry review following such transition is **initiated**. With a view to reducing the risk of circumvention of the provisions of this Regulation, the same approach should apply with respect to reviews conducted pursuant to Article 11(4) of Regulation (EU) 2016/1036. It is also appropriate to recall that a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to **paragraphs 1 to 6a** of Article 2 would not in itself constitute sufficient evidence within the meaning of Article 11(3) of Regulation (EU) 2016/1036. Such transitional rules should complete a lacuna that would otherwise risk to generate legal uncertainty, should provide a reasonable

Amendment

(6) Absent any other specific transitional rules regulating the matter, it is appropriate to provide for the application of this Regulation to all decisions on the initiation of proceedings, and to all proceedings, including original investigations and review investigations, initiated, on or after the date on which this Regulation enters into force, subject to Article 11(9) of Regulation (EU) 2016/1036. Furthermore, by way of specific transitional rule, and having regard to the absence of any other specific transitional rule regulating the matter, it is appropriate to provide that, in the case of a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) of Regulation (EU) 2016/1036 to a normal value calculated pursuant to **paragraph 1 to 6a** of Article 2, the reasonable period of time provided for in the first sub-paragraph of Article 11(3) of Regulation (EU) 2016/1036 should be deemed to elapse on the date on which the first expiry review following such transition is **terminated**. With a view to reducing the risk of circumvention of the provisions of this Regulation, the same approach should apply with respect to reviews conducted pursuant to Article 11(4) of Regulation (EU) 2016/1036. It is also appropriate to recall that a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) of Regulation (EU) 2016/1036 to a normal value calculated pursuant to **paragraph 1 to 6a** of Article 2 would not in itself constitute sufficient evidence within the meaning of Article 11(3) of Regulation (EU) 2016/1036. Such transitional rules, **enabling the continued application of measures to defend against subsidised**

opportunity for interested parties to adapt themselves to the expiry of the old rules and the entry into force of the new rules, and should facilitate the efficient, orderly and equitable administration of Regulation (EU) 2016/1036.

imports, should complete a lacuna that would otherwise risk to generate legal uncertainty, should provide a reasonable opportunity for interested parties to adapt themselves to the expiry of the old rules and the entry into force of the new rules, and should facilitate the efficient, orderly and equitable administration of Regulation (EU) 2016/1036.

Amendment 5

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point a

Text proposed by the Commission

'6a. (a) In case it is determined, ***when applying this provision or any other relevant provision of this Regulation***, that it is not appropriate to use domestic prices and ***costs in the exporting country*** due to the existence of significant distortions, the normal value shall be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks. For this purpose, the sources ***that may be used*** include undistorted international prices, costs, or benchmarks, or corresponding costs of production and sale in an appropriate representative country ***with a similar level of economic development as the exporting country***, provided the relevant cost data are readily available. ***The constructed normal value shall include a reasonable amount for administrative, selling and general costs and for profits.***

Amendment

'6a. (a) In case it is determined that it is not appropriate to use domestic prices and costs due to the existence of ***one or more of significant distortions in the exporting country in the economy as a whole or in sector therein***, the normal value shall be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks ***for each and every factor of production***. For this purpose, the sources ***the Commission may use*** include undistorted international prices, costs, or benchmarks, or corresponding costs of production and sale in an appropriate representative country ***including those in the Union***, provided the relevant cost data are readily available.

If an exporting producer from a country where one or more significant distortions exist clearly demonstrates that it is not directly or indirectly affected by any significant distortion and that its costs of one or more of its individual factors of production are not distorted, as assessed

pursuant to the third subparagraph, those costs shall be used in the construction of its normal value.

The absence of distortion of an exporting producer's costs of a given factor of production and the reliability thereof shall be assessed, inter alia, by reference to the quantities involved, their proportion in relation to the total costs of that factor of production, and actual use in production.

Such individual findings shall not influence the normal value of other exporting producers and therefore shall not be extrapolated to the whole country or sectors regardless of the application of Article 17 of Regulation (EU) 2016/1036.

The constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and profits. In the event of lack of cooperation in drafting the report by an exporting producer or the authorities from a country in which one or more significant distortions are deemed to exist, Article 18 of Regulation (EU) 2016/1036 applies.

Amendment 6

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point b

Text proposed by the Commission

(b) Significant distortions **for the product concerned** within the meaning of point (a) **may be deemed to exist, inter alia**, when reported prices or costs, including the costs of raw materials, are not the result of free market forces as they are affected by government intervention. **In considering whether or not** significant distortions exist regard **may** be had, *inter alia*, to the potential impact of the following: the

Amendment

(b) Significant distortions within the meaning of point (a) **are those distortions which occur** when reported prices or costs, including the costs of raw materials, **energy and other factors of production**, are not the result of free market forces as they are affected by government intervention, **or in the event of lack of compliance with the core ILO conventions listed in Annex -I, multilateral**

market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; *and access to finance granted by institutions implementing public policy objectives.*

environmental agreements to which the Union is a party and relevant OECD conventions pertaining to the field of taxations, leading to a distortion of competition. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of the following: a high degree of government influence, whether direct or indirect, over the allocation of resources and decisions and enterprises; the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; the lack of or discriminatory application or inadequate enforcement of a transparent and effective functioning company law which ensures adequate corporate governance; the lack of or discriminatory application or inadequate enforcement of a transparent and effectively functioning set of laws that ensures the respect of property rights and the operation of a functioning bankruptcy regime; wage rates are not the result of free bargaining between labour and management; the absence of a transparent set of laws produces discriminatory effects with regard to joint-ventures and foreign investments and access to finance granted by institutions which implement public policy objectives, or otherwise not acting autonomously from the state, including by way of sectorial subsidies, or the existence of an oligopoly or monopoly in factors of production, and other circumstances which the Commission considers to be appropriate in order to evaluate the existence of significant distortions.

Amendment 7

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point c

Text proposed by the Commission

(c) ***When appropriate, the*** Commission services ***may*** issue a report describing the specific situation concerning the criteria listed in point (b) in a certain country or a certain sector. Such report and the evidence on which it is based ***may*** be placed on the file of any investigation relating to that country or sector. Interested parties shall have ample opportunity to ***supplement***, comment or rely on the report and the evidence on which it is based in each investigation in which such report or evidence is used. ***The determinations made shall take into account all of the relevant evidence on the file.***

Amendment

(c) ***The*** Commission services ***shall*** issue a ***detailed*** report describing the specific situation concerning the criteria listed in point (b) in a certain country or a certain sector. ***For those countries for which a substantial number of anti-dumping cases have been opened, the report shall be adopted by...[insert date that is date of entry into force of this Regulation + 15 days].*** Such report and the evidence on which it is based ***shall*** be placed on the file of any investigation relating to that country or sector. Interested parties, ***including Union industry and trade unions***, shall have ample opportunity to comment or rely on the report and the evidence on which it is based in each investigation in which such report or evidence is used. ***Such indications shall be considered when deciding on producing and updating the relevant reports. In drafting its report the Commission shall take into consideration the economic and trade specificities of SMEs and shall help them in the process of making use of the reports. In making the determinations, the Commission shall take into account all the relevant evidence that is on the file of investigation. On the request of the European Parliament, of a Member State or on the Commission's own initiative when circumstances in a specific country or sector have changed, the Commission shall initiate or update the report. The Commission shall include an analysis on the implementation of this Regulation in its annual report on the Union's anti-dumping, anti-subsidy and safeguard activities and shall present it to the European Parliament.***

Amendment 8

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point d

Text proposed by the Commission

(d) The Union industry may rely on the report referred to in point (c) for the calculation of normal value when filing a complaint in accordance with Article 5 or a request for a review in accordance with Article 11.

Amendment

(d) The Union industry may rely on the report referred to in point (c) for the calculation of normal value when filing a complaint in accordance with Article 5 or a request for a review in accordance with Article 11 ***or in a request for re-investigation in accordance with Article 12. When the report shows the existence of one or more significant distortions, the report pursuant to point (c) shall constitute sufficient evidence in order to justify the calculation of the normal value pursuant to in point (a). In any event, no additional burdens shall be requested from the Union industry in the determination of the existence of significant distortions in a third country or sector. In the absence of a report, the Commission shall use any available information or data to establish the existence of significant distortions and use the methodology referred to in point (a) if the relevant requirements are met.***

Amendment 9

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point e

Text proposed by the Commission

(e) The parties to the investigation shall be informed shortly after initiation about the relevant sources that the Commission intends to use for the purpose of point (a) and shall be given 10 days to comment. For this purpose, interested parties shall be

Amendment

(e) The parties to the investigation shall be informed shortly after initiation about the relevant sources that the Commission intends to use for the purpose of point (a), ***including a preliminary determination as the existence of significant distortions*** and

given access *to* the file, including any evidence on which the investigating authority relies, without prejudice to Article 19.

shall be given 10 *working* days to comment. For this purpose, interested parties shall be given access the file *after they have registered on a register maintained by the Commission*, including any evidence on which the investigating authority relies, without prejudice to Article 19. *The Commission shall make a definitive determination on the existence of one or more significant distortions in the exporting country in the economy as a whole or in a sector therein and shall disclose it to the parties no later than 60 days following the initiation of the investigation.*

A determination that significant distortions exist in a given country or sector shall remain in effect until revoked, and such revocation shall take place only if sufficient evidence has conclusively shown that that country or sector is no longer affected by significant distortions.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/1036

Article 2 – paragraph 7 – point a – subparagraph 1

Text proposed by the Commission

In the case of imports from countries which are, at the date of initiation, not members of the WTO and listed in Annex I of Regulation (EU) 2015/755, normal value shall be determined on the basis of the price or constructed value in *a market economy third country*, or the price from such a third country to other countries, including the Union, or where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

Amendment

In the case of imports from countries which are, at the date of initiation, not members of the WTO and listed in Annex I of Regulation (EU) 2015/755, normal value shall be determined on the basis of the price or constructed value in *an appropriate representative country that is either member of the WTO or not listed in Annex I to Regulation (EU) 2015/755. Otherwise, the normal value shall be determined on the basis of* the price from such a third country to other countries, including the Union, or where those are not possible, on any other reasonable basis, including the price actually paid or payable

in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/1036

Article 2 – paragraph 7 – point a – subparagraph 2

Text proposed by the Commission

An appropriate *market economy third* country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time-limits; where appropriate, *a market economy third* country which is subject to the same investigation shall be used.

Amendment

An appropriate *representative* country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time-limits; where appropriate, *an appropriate representative* country which is subject to the same investigation shall be used.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/1036

Article 2 – paragraph 7 – point a – subparagraph 3

Text proposed by the Commission

The parties to the investigation shall be informed shortly after its initiation of the *market economy third* country envisaged and shall be given 10 days to comment.

Amendment

The parties to the investigation shall be informed shortly after its initiation of the *appropriate representative* country envisaged and shall be given 10 days to comment.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 a (new)

Regulation (EU) 2016/1036

Article 3 – paragraph 6

‘6. It must be demonstrated, from all the relevant evidence presented in relation to paragraph 2, that the dumped imports are causing injury within the meaning of this Regulation. Specifically, that shall entail demonstrating that the volume and/or price levels identified pursuant to paragraph 3 are responsible for an impact on the Union industry as provided for in paragraph 5, and that that impact exists to a degree which enables it to be classified as material.’

(2a) In Article 3, paragraph 6 is replaced by the following:

"6. It must be demonstrated, from all the relevant evidence **and the best information available** presented in relation to paragraph 2, that the dumped imports are causing injury within the meaning of this Regulation. Specifically, that shall entail demonstrating that the volume and/or price levels identified pursuant to paragraph 3 are responsible for an impact on the Union industry as provided for in paragraph 5, and that that impact exists to a degree which enables it to be classified as material.’

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/1036

Article 11 – paragraph 3 – subparagraph 1

Text proposed by the Commission

In the case of a transition from a normal value calculated pursuant to the former Articles 2(7)(a) or 2(7)(b) ***to a normal value calculated pursuant to paragraphs 1 to 6a of Article 2, the reasonable period of time shall be deemed to elapse on*** the date on which the first expiry review following ***such transition is initiated.***

Amendment

Where existing anti-dumping measures are based on a normal value calculated pursuant to the former Articles 2(7)(a) or 2(7)(b) of Regulation (EU) 2016/1036, ***the methodology of paragraph 6a of Article 2 shall not replace the original methodology used for the determination of the normal value until*** the date on which the first expiry review ***of those measures, following the entry into force of Regulation ..., is terminated.***

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EU) 2016/1036

Article 11 – paragraph 4 – subparagraph 4a

In the case of a transition from a normal value calculated pursuant to the former Articles 2(7)(a) or 2(7)(b) ***to a normal value calculated pursuant to paragraphs 1 to 6a of Article 2, any review pursuant to this paragraph shall be deferred to*** the date on which the first expiry review following ***such transition is initiated.***

Where existing anti-dumping measures are based on a normal value calculated pursuant to the former Articles 2(7)(a) or 2(7)(b) of Regulation (EU) 2016/1036, ***the methodology of paragraph 6a of Article 2 shall not replace the original methodology used for the determination of the normal value until*** the date on which the first expiry review ***of those measures, following the entry into force of Regulation ..., is terminated.***

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 5 a (new)

Regulation (EU) 2016/1036

Article 16 – paragraph 1

Present text

‘1. The Commission shall, where it considers it appropriate, carry out visits to examine the records of importers, exporters, traders, agents, producers, trade associations and organisations and to verify information provided on dumping and injury. In the absence of a proper and timely reply the Commission may choose not to carry out a verification visit.’

Amendment

(5a) In Article 16, paragraph 1 is replaced by the following:

"1. The Commission shall, where it considers it appropriate, ***send experienced agents to*** carry out visits to examine the records of importers, exporters, traders, agents, producers, trade associations and organisations and to verify information provided on dumping and injury. In the absence of a proper and timely reply the Commission may choose not to carry out a verification visit.’

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 5 b (new)

Regulation (EU) 2016/1036

Article 18 – paragraph 1 – subparagraph 1

Present text

Amendment

‘In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time limits provided for in this Regulation, or significantly impedes the investigation, provisional or final findings, ***affirmative or negative, may*** be made on the basis of the facts available.

(5b) In Article 18, paragraph 1, subparagraph 1 is replaced by the following:

"In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time limits provided for in this Regulation, or significantly impedes the investigation, provisional or final findings ***shall*** be made on the basis of the ***best*** facts available.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 5 c (new)

Regulation (EU) 2016/1036

Article 18 – paragraph 1 – subparagraph 3

Present text

‘Interested parties shall be made aware of the consequences of non-cooperation.’

Amendment

(5c) In Article 18, paragraph 1, subparagraph 3 is replaced by the following:

‘Interested parties shall be made aware of the consequences of non-cooperation ***and shall be listed in a register whose use will enable the Commission and the partner countries to focus more attention on the activities of those parties.***’

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 5 d (new)

Regulation (EU) 2016/1036

Annex -I (new)

Text proposed by the Commission

Amendment

(5d) The following annex is inserted:

"Annex -I

1. Convention concerning Forced or

Compulsory Labour, No 29 (1930)

2. Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948)

3. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949)

4. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951)

5. Convention concerning the Abolition of Forced Labour, No 105 (1957)

6. Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958)

7. Convention concerning Minimum Age for Admission to Employment, No 138 (1973)

8. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999)."

Amendment 20

Proposal for a regulation

Article 2 – paragraph 1

Regulation (EU) 2016/1037

Article 10 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The Commission shall also offer consultations to the country of origin and/or export concerned with regard to other subsidies identified in the course of the investigation. In these situations, the Commission shall send to the country of origin and/or export a summary of the main elements concerning other subsidies, in particular those referred to in point (c) of paragraph 2 of this article. If the additional subsidies are not covered by the notice of initiation, the notice of initiation shall be amended and the amended version be published in the Official Journal of the

Amendment

The Commission shall also offer consultations to the country of origin and/or export concerned with regard to other subsidies identified in the course of the investigation. In these situations, the Commission shall send to the country of origin and/or export a summary of the main elements concerning other subsidies, in particular those referred to in point (c) of paragraph 2 of this article. If the additional subsidies are not covered by the notice of initiation, the notice of initiation shall be amended and the amended version be published in the Official Journal of the

European Union, *inviting* all interested parties to comment.

European Union. All interested parties *shall be given additional and sufficient time* to comment.

Amendment 21

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

This Regulation shall apply to all *decisions on the initiation of proceedings, and to all proceedings, including original investigations and review investigations, initiated, on or after* the date on which *this Regulation enters* into force.

Amendment

This Regulation shall apply to all *investigations under Article 5 of Regulation (EU) 2016/1036 initiated on or after ...[insert date of entry into force of this Regulation]. For all other investigations, this Regulation shall apply from* the date on which *the first expiry review of the relevant measures, following that date is terminated.*

30.5.2017

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (COM(2016)0721 – C8-0456/2016 – 2016/0351(COD))

Rapporteur: Jerzy Buzek

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation
Citation 2 a (new)

Text proposed by the Commission

Amendment

Having regard to the resolution of the European Parliament of 12 May 2016 on China's market economy status,

Amendment 2

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The Union should be able to protect its industry against dumping effectively, and future Union action should accord with WTO rules. An

instrument with the same rules for all trading partners is the correct basis for lasting trade relations.

Amendment 3

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) *Articles 2(7)(a) and 2(7)(b) of Regulation (EU) 2016/1036 stipulate the basis on which normal value should be determined in the case of imports from non-market economy countries. In view of developments with respect to certain countries that are Members of the WTO, it is appropriate that, for those countries, normal value should be determined on the basis of paragraphs 1 to 6a of Article 2 of Regulation (EU) 2016/1036, with effect from the date on which this Regulation enters into force, and subject to the provisions of this Regulation. In the case of countries which are, at the date of initiation, not Members of the WTO and listed in Annex I of Regulation (EU) 2015/755², normal value should be determined on the basis of paragraph 7 of Article 2 of Regulation (EU) 2016/1036, as amended by this Regulation. **This Regulation should be without prejudice to establishing whether or not any WTO Member is a market economy.***

² 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 (OJ L 123, 19.5.2015, p. 33).

Amendment

(2) *In view of developments in world trade, concerning also Members of the WTO, including their effects on domestic industry, it is appropriate to determine normal value on the basis of paragraphs 1 to 6a of Article 2 of Regulation (EU) 2016/1036, with effect from the date on which this Regulation enters into force, and subject to the provisions of this Regulation. In the case of **non-market-economy** countries which are **Members of the WTO or that**, at the date of initiation, **are** not Members of the WTO and listed in Annex I of Regulation (EU) 2015/755², normal value should be determined on the basis of paragraph 7 of Article 2 of Regulation (EU) 2016/1036, as amended by this Regulation.*

² 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 (OJ L 123, 19.5.2015, p. 33).

Justification

The rapporteur maintains an explicit reference to market or non-market economy status for WTO Members, as provided for instance by Article 15.d of the Protocol of Accession of China to the WTO.

Amendment 4

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) In view of the Council agreement to modernise the Union's trade defence instruments (TDIs) and in order to have effective anti-dumping measures, it is necessary to take into account that the lesser duty rule unjustly reduces the anti-dumping duties at a level below the dumping margin. For that purpose and, as proposed by the European Parliament in its position adopted at first reading on 16 April 2014 relating to the modernisation of TDIs, the lesser duty rule should be removed, the trade defence proceedings should be accelerated, provisional duties should be imposed, and trade unions and SMEs should be allowed to submit anti-dumping complaints.

Amendment 5

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(3) In the light of experience gained in past proceedings, it is appropriate to clarify the circumstances in which significant distortions affecting to a considerable extent free market forces may be deemed to exist. In particular, it is appropriate to clarify that this situation may be deemed to exist, inter alia, when reported prices or costs, including the costs of raw materials, are not the result of free market forces because they are affected by government intervention. It is further appropriate to clarify that in considering whether or not such a situation exists regard may be had,

(3) In the light of experience gained in past proceedings, it is appropriate to clarify the circumstances in which significant distortions affecting to a considerable extent free market forces may be deemed to exist. In particular, it is appropriate to clarify that this situation may be deemed to exist, inter alia, when reported prices or costs, including the costs of raw materials ***and other production factors***, are not the result of free market forces because they are affected by *state* intervention ***at any level, including central, regional and provincial level***. It is further appropriate to

inter alia, to the potential impact of the following: the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; **and access to finance granted by institutions implementing public policy objectives**. It is further appropriate to provide that the Commission *services may* issue a report describing the specific situation concerning these criteria in a certain country or a certain sector; that such report and the evidence on which it is based *may* be placed on the file of any investigation relating to that country or sector; and that interested parties should have ample opportunity to comment on the report and the evidence on which it is based in each investigation in which such report or evidence is used.

clarify that in considering whether or not such a situation exists regard may be had, inter alia, to the potential impact of the following:

the market in question is to a significant extent served by enterprises, ***such as public bodies***, which operate under the ownership, control or policy supervision or guidance, ***whether direct or indirect***, of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers, ***for example through the use of state-fixed prices, or discrimination in the tax, trade or currency regimes***; or otherwise influencing free market forces, ***including the allocation of resources; the absence of a transparent and non-discriminatory company law which ensures adequate corporate governance, such as the application of international accounting standards, the protection of shareholders and public availability of accurate company information; the absence and***

implementation of a coherent, effective and transparent set of laws which ensure the respect of property rights and the operation of a functioning bankruptcy regime; the absence of a genuine financial sector which operates independently from the state and which in law and practice is subject to sufficient guarantee provisions and adequate supervision; lack of compliance with international social and environmental standards having as result an impact on costs production.

It is further appropriate to provide that the Commission *should* issue, *as soon as possible*, a report describing the specific situation concerning these criteria in a certain country or a certain sector; that such report and the evidence on which it is based *should* be placed on the file of any investigation relating to that country or sector *and updated on a regular basis as appropriate*; and that interested parties should have ample opportunity to comment on the report and the evidence on which it is based in each investigation in which such report or evidence is used.

Amendment 6

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) It is further appropriate to recall that costs should normally be calculated on the basis of records kept by the exporter or producer under investigation. However, where there are significant distortions in the exporting country with the consequence that costs reflected in the records of the party concerned are artificially low, such costs *may* be adjusted or established on any reasonable basis, including information from other representative markets or from international prices or benchmarks. In the

Amendment

(4) It is further appropriate to recall that costs should normally be calculated on the basis of records kept by the exporter or producer under investigation. However, where there are significant distortions in the exporting country with the consequence that costs reflected in the records of the party concerned are artificially low *and do not reflect actual market values*, such costs *should* be adjusted or established on any reasonable basis, including information from other representative markets or from

light of experience gained in past proceedings, it is appropriate to further clarify that, for the purposes of applying the provisions introduced by this regulation, due account should be taken of all relevant evidence, including relevant assessment reports regarding the circumstances prevailing on the domestic market of the exporting producers and the evidence on which they are based, which has been placed on the file, and upon which interested parties have had an opportunity to comment.

undistorted international prices or benchmarks, ***including Union prices or benchmarks where appropriate***. In the light of experience gained in past proceedings, it is appropriate to further clarify that, for the purposes of applying the provisions introduced by this regulation, due account should be taken of all relevant evidence, including relevant assessment reports regarding the circumstances prevailing on the domestic market of the exporting producers and the evidence on which they are based, which has been placed on the file, and upon which interested parties have had an opportunity to comment.

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Absent any other specific transitional rules regulating the matter, it is appropriate to provide for the application of this Regulation to all decisions on the initiation of proceedings, and to all proceedings, including original investigations and review investigations, initiated, on or after the date on which this Regulation enters into force, subject to Article 11(9) of Regulation (EU) 2016/1036. Furthermore, by way of specific transitional rule, and having regard to the absence of any other specific transitional rule regulating the matter, it is appropriate to provide that, in the case of a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to paragraphs 1 to **6a** of Article 2, the reasonable period of time provided for in the first sub-paragraph of Article 11(3) of Regulation (EU) 2016/1036 should be deemed to elapse on the date on which the first expiry review following such

Amendment

(6) Absent any other specific transitional rules regulating the matter, it is appropriate to provide for the application of this Regulation to all decisions on the initiation of proceedings, and to all proceedings, including original investigations and review investigations, initiated, on or after the date on which this Regulation enters into force, subject to Article 11(9) of Regulation (EU) 2016/1036. Furthermore, by way of specific transitional rule, and having regard to the absence of any other specific transitional rule regulating the matter, it is appropriate to provide that, in the case of a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to paragraphs 1 to **6e** of Article 2, the reasonable period of time provided for in the first sub-paragraph of Article 11(3) of Regulation (EU) 2016/1036 should be deemed to elapse on the date on which the first expiry review following such

transition is initiated. With a view to reducing the risk of circumvention of the provisions of this Regulation, the same approach should apply with respect to reviews conducted pursuant to Article 11(4) of Regulation (EU) 2016/1036. It is also appropriate to recall that a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to paragraphs 1 to **6a** of Article 2 would not in itself constitute sufficient evidence within the meaning of Article 11(3) of Regulation (EU) 2016/1036. Such transitional rules should complete a lacuna that would otherwise risk to generate legal uncertainty, should provide a reasonable opportunity for interested parties to adapt themselves to the expiry of the old rules and the entry into force of the new rules, and should facilitate the efficient, orderly and equitable administration of Regulation (EU) 2016/1036.

transition is initiated. With a view to reducing the risk of circumvention of the provisions of this Regulation, the same approach should apply with respect to reviews conducted pursuant to Article 11(4) of Regulation (EU) 2016/1036. It is also appropriate to recall that a transition from a normal value calculated pursuant to Articles 2(7)(a) or 2(7)(b) to a normal value calculated pursuant to paragraphs 1 to **6e** of Article 2 would not in itself constitute sufficient evidence within the meaning of Article 11(3) of Regulation (EU) 2016/1036. Such transitional rules should complete a lacuna that would otherwise risk to generate legal uncertainty, should provide a reasonable opportunity for interested parties to adapt themselves to the expiry of the old rules and the entry into force of the new rules, and should facilitate the efficient, orderly and equitable administration of Regulation (EU) 2016/1036.

Amendment 8

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) The Union should coordinate with major trading partners through multilateral or bilateral actions before and during investigations. In this regards, a comparative follow-up on the anti-dumping calculation with our major trading partners should be exercised by the Commission and the results should be communicated to the stakeholders.

Amendment 9

Proposal for a regulation Article 1 – paragraph 1 – point 1 Regulation (EU) 2016/1036 Article 2 – paragraph 6a – point a

Text proposed by the Commission

(a) In case it is determined, ***when applying this provision or any other relevant provision of this Regulation***, that it is not appropriate to use domestic prices and costs in the exporting country due to the existence of significant distortions, the normal value shall be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks. For this purpose, the sources that may be used include undistorted international prices, costs, or benchmarks, or corresponding costs of production and sale in an appropriate representative country ***with a similar level of economic development as the exporting country***, provided the relevant ***cost*** data are readily available. The constructed normal value shall include a reasonable amount for administrative, selling and general costs and for profits.

Amendment

(a) In case it is determined that it is not appropriate to use domestic prices and costs in the exporting country due to the existence of significant distortions ***in the economy as a whole or in sectors of the economy***, the normal value shall ***be based on a price or*** be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks ***for every factor of production***. For this purpose, the sources that may be used include undistorted international prices, costs, or benchmarks, or corresponding costs of production and sale in an appropriate representative country, ***including those in the Union, and with sufficient level of international social and environmental standards***, provided the relevant data are readily available. The constructed normal value shall include a reasonable amount for administrative, selling and general costs and for profits.

Where an exporter can clearly demonstrate that its prices or costs of all factors of production are not affected by significant distortions, those prices or costs shall be used in the construction of its normal value.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point b

Text proposed by the Commission

(b) Significant distortions ***for the product concerned*** within the meaning of point (a) may be deemed to exist, inter alia, when reported prices or costs, including the costs of raw materials, are not the result of free market forces as they are affected by government intervention. In considering

Amendment

(b) Significant distortions within the meaning of point (a) may be deemed to exist, inter alia, when reported prices or costs, including the costs of raw materials ***and others factors of production***, are not the result of free market forces as they are affected by ***state*** intervention ***at any level***.

whether or not significant distortions exist regard may be had, inter alia, to the potential impact of the following: the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces; **and access to finance granted by institutions implementing public policy objectives.**

In considering whether or not significant distortions exist regard **shall** be had, inter alia, to the potential impact of the following:

the market in question is to a significant extent served by enterprises which operate under the ownership, control or policy supervision or guidance, **whether directly or indirectly (such as public bodies)**, of the authorities of the exporting country; state presence in firms allowing the state to interfere with respect to prices or costs; public policies or measures discriminating in favour of domestic suppliers **for example through the use of state-fixed prices, or discrimination in the tax, trade or currency regimes**; or otherwise influencing free market forces, **including the allocation of resources; the absence of a transparent and non-discriminatory company law which ensures adequate corporate governance, such as the application of international accounting standards, protection of shareholders and public availability of accurate company information; the absence and implementation of a coherent, effective and transparent set of laws which ensure the respect of property rights and the operation of a functioning bankruptcy regime; the absence of a genuine financial sector which operates independently from the state and which in law and practice is subject to sufficient guarantee provisions and adequate supervision; lack of compliance with international social and environmental**

standards having as result an impact on costs production;

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point b a (new)

Text proposed by the Commission

Amendment

(ba) Significant distortions for the product concerned within the meaning of point (a) shall be deemed to exist, inter alia, when reported prices or costs are the result of overcapacities in the sense that the price or the cost of the product is not the result of free market forces as they are affected by levels of overproductions which reduce the impact of fixed costs.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point c

Text proposed by the Commission

Amendment

(c) *When appropriate*, the Commission *services may* issue a report describing the specific situation concerning the criteria listed in *point (b)* in a certain country or a certain sector. Such report and the evidence on which it is based may be placed on the file of any investigation relating to that country or sector. Interested parties shall have ample opportunity to supplement, comment or rely on the report and the evidence on which it is based in each investigation in which such report or evidence is used. The determinations made shall take into account all of the relevant evidence on the file.

(c) The Commission *shall* issue, *as soon as possible*, a *public* report describing the specific situation concerning the criteria listed in points (b) in a certain country or a certain sector. Inter alia, *the report shall, where appropriate, include information on the compliance with international environmental and social standards that affect the cost production.* Such report and the evidence on which it is based, *as well as relevant findings from prior Union investigations and country reports, shall* be placed on the file of any investigation relating to that country or sector. Interested parties, *including trade unions and SMEs*, shall have ample

opportunity to supplement, comment or rely on the report and the evidence on which it is based in each investigation in which such report or evidence is used. ***The Commission shall inform the European Parliament and the Council accordingly. The determinations made shall take into account all relevant evidence on the file, based on reliable, secure and timely information and data available. The report or the evidence on which it is based shall be updated by the Commission on a regular basis at least every five years or whenever the situation concerning the criteria laid down in point (b) have changed.***

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point d

Text proposed by the Commission

(d) The Union industry may rely on the report referred to in point (c) for the calculation of normal value when filing a complaint in accordance with Article 5 ***or*** a request for a review in accordance with Article 11.

Amendment

(d) The Union industry ***and trade unions*** may rely on the report referred to in point (c) for the calculation of normal value when filing a complaint in accordance with Article 5, request for a review in accordance with Article 11 ***or request for a reinvestigation in accordance with Article 12. That report shall constitute sufficient evidence to justify the calculation of normal value in the complaint or request on the basis of the methodology specified in paragraph 6a. Furthermore, where a significant portion of the complaining Union industry is made up of SMEs, the normal value calculations in the complaint or request may be based on information related to costs of production in the Union of the product concerned.***

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EU) 2016/1036

Article 2 – paragraph 6a – point e

Text proposed by the Commission

(e) The parties to the investigation shall be informed shortly after initiation about the relevant sources that the Commission intends to use for the purpose of point (a) and shall be given 10 days to comment. For this purpose, interested parties shall be given access to the file, including any evidence on which the investigating authority relies, without prejudice to Article 19.

Amendment

(e) The parties to the investigation, ***including trade unions and SMEs***, shall be informed shortly after initiation about the relevant sources that the Commission intends to use for the purpose of point (a) and shall be given 10 days to comment. For this purpose, interested parties shall be given access to the file, including any evidence on which the investigating authority relies, without prejudice to Article 19. ***A disclosure regarding the methodology to be used shall be communicated to the parties no later than three months from initiation of the investigation.***

Amendment 15

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

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

Amendment

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

By that date the Commission will have published its report referred to in point 1 of Article 1 of this Regulation, as regards Article 6a (c) of Regulation (EU) 2016/1036.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Protection against dumped and subsidised imports from countries not members of the EU
References	COM(2016)0721 – C8-0456/2016 – 2016/0351(COD)
Committee responsible Date announced in plenary	INTA 21.11.2016
Opinion by Date announced in plenary	ITRE 21.11.2016
Rapporteur Date appointed	Paloma López Bermejo 5.12.2016
Discussed in committee	27.2.2017
Date adopted	30.5.2017
Result of final vote	+: 30 –: 21 0: 5
Members present for the final vote	Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, Reinhard Bütikofer, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Ashley Fox, Adam Gierek, Theresa Griffin, Hans-Olaf Henkel, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jaromír Kohlíček, Peter Kouroumbashev, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Angelika Mlinar, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Michel Reimon, Herbert Reul, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Jean-Luc Schaffhauser, Neoklis Sylikiotis, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Lieve Wierinck, Anna Záborská, Flavio Zanonato, Carlos Zorrinho
Substitutes present for the final vote	Soledad Cabezón Ruiz, Jude Kirton-Darling, Constanze Krehl, Barbara Kudrycka, Olle Ludvigsson, Florent Marcellési, Marian-Jean Marinescu, Marisa Matias, Markus Pieper, Sofia Sakorafa, Anne Sander, Pavel Telička, Anneleen Van Bossuyt
Substitutes under Rule 200(2) present for the final vote	Fabio Massimo Castaldo, Nicola Danti, Gabriele Preuß

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

30	+
ALDE	Kaja Kallas, Angelika Mlinar, Morten Helveg Petersen, Pavel Telicka, Lieve Wierinck
ENF	Angelo Ciocca, Jean-Luc Schaffhauser
PPE	Bendt Bendtsen, Jerzy Buzek, Christian Ehler, Krišjānis Kariņš, Seán Kelly, Barbara Kudrycka, Janusz Lewandowski, Marian-Jean Marinescu, Angelika Niebler, Markus Pieper, Herbert Reul, Massimiliano Salini, Anne Sander, Algirdas Saudargas, Vladimir Urutchev, Henna Virkkunen, Anna Záborská, Pilar del Castillo Vera
Verts/ALE	Reinhard Bütikofer, Jakop Dalunde, Florent Marcellesi, Michel Reimon, Claude Turmes

21	-
EFDD	Fabio Massimo Castaldo
GUE	Xabier Benito Ziluaga, Jaromír Kohlíček, Paloma López Bermejo, Marisa Matias
S&D	José Blanco López, Soledad Cabezón Ruiz, Adam Gierek, Theresa Griffin, Jude Kirton-Darling, Peter Kouroumbashev, Constanze Krehl, Miapetra Kumpula-Natri, Olle Ludvigsson, Edouard Martin, Dan Nica, Miroslav Poche, Gabriele Preuß, Kathleen Van Brempt, Flavio Zanonato, Carlos Zorrinho

5	0
ECR	Edward Czesak, Ashley Fox, Hans-Olaf Henkel, Evžen Tošenovský, Anneleen Van Bossuyt

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Protection against dumped and subsidised imports from countries not members of the EU	
References	COM(2016)0721 – C8-0456/2016 – 2016/0351(COD)	
Date submitted to Parliament	9.11.2016	
Committee responsible Date announced in plenary	INTA 21.11.2016	
Committees asked for opinions Date announced in plenary	ITRE 21.11.2016	JURI 21.11.2016
Rapporteurs Date appointed	Salvatore Cicu 28.11.2016	
Discussed in committee	24.1.2017	4.5.2017
Date adopted	20.6.2017	
Result of final vote	+: 33	–: 3
	0: 2	
Members present for the final vote	William (The Earl of) Dartmouth, Laima Liucija Andrikienė, Tiziana Beghin, David Borrelli, Daniel Caspary, Salvatore Cicu, Santiago Fisas Ayxelà, Eleonora Forenza, Jude Kirton-Darling, Patricia Lalonde, Bernd Lange, Emma McClarkin, Anne-Marie Mineur, Sorin Moisă, Alessia Maria Mosca, Franz Obermayr, Franck Proust, Tokia Saïfi, Matteo Salvini, Marietje Schaake, Helmut Scholz, Joachim Schuster, Hannu Takkula, Iuliu Winkler, Jan Zahradil	
Substitutes present for the final vote	Eric Andrieu, Klaus Buchner, Dita Charanzová, Nicola Danti, Seán Kelly, Sander Loones, Georg Mayer, Bolesław G. Piecha, Jarosław Wałęsa	
Substitutes under Rule 200(2) present for the final vote	Clara Eugenia Aguilera García, Birgit Collin-Langen, Edouard Martin, Massimiliano Salini	
Date tabled	27.6.2017	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

33	+
ALDE	Dita Charanzová, Patricia Lalonde, Marietje Schaake, Hannu Takkula
ECR	Sander Loones, Emma McClarkin, Jan Zahradil
EFDD	William (The Earl of) Dartmouth
ENF	Georg Mayer, Franz Obermayr, Matteo Salvini
PPE	Laima Liucija Andrikienė, Daniel Caspary, Salvatore Cicu, Birgit Collin-Langen, Santiago Fisas Ayxelà, Seán Kelly, Franck Proust, Massimiliano Salini, Tokia Saïfi, Jarosław Wałęsa, Iuliu Winkler
S&D	Clara Eugenia Aguilera García, Eric Andrieu, Nicola Danti, Jude Kirton-Darling, Bernd Lange, Edouard Martin, Sorin Moisă, Alessia Maria Mosca, Joachim Schuster
Verts/ALE	Klaus Buchner

3	-
EFDD	Tiziana Beghin, David Borrelli
GUE/NGL	Anne-Marie Mineur

2	0
GUE/NGL	Eleonora Forenza, Helmut Scholz

Key to symbols:

+ : in favour

- : against

0 : abstention