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

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

of 15 January 2014

amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) A number of basic regulations relating to the common commercial policy provide that acts implementing the common commercial policy are to be adopted by the Council in accordance with the procedures set down in the various instruments concerned or by the Commission subject to specific procedures and control by the Council. Such procedures are not subject to Council Decision 1999/468/EC[(2)].

(2) It is appropriate to amend those basic regulations in order to ensure consistency with the provisions introduced by the Treaty of Lisbon. This should be done, where appropriate, through the granting of delegated powers to the Commission and by applying certain procedures set out in Regulation (EU) No 182/2011 of the European Parliament and of the Council[(3)].

(3) The following regulations should therefore be amended accordingly:

— Regulation (EEC) No 2841/72 of the Council[(4)],

— Regulation (EEC) No 2843/72 of the Council[(5)],

— Regulation (EEC) No 1692/73 of the Council[(6)],

— Council Regulation (EC) No 3286/94[(7)],

— Council Regulation (EC) No 385/96[(8)],

— Council Regulation (EC) No 2271/96[(9)],

— Council Regulation (EC) No 1515/2001[(10)],

— Council Regulation (EC) No 153/2002[(11)],

— Council Regulation (EC) No 427/2003[(12)],

— Council Regulation (EC) No 452/2003[(13)],

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

— Council Regulation (EC) No 673/2005[14],
— Council Regulation (EC) No 1236/2005[15],
— Council Regulation (EC) No 1616/2006[16],
— Council Regulation (EC) No 1528/2007[17],
— Council Regulation (EC) No 140/2008[18],
— Council Regulation (EC) No 55/2008[19],
— Council Regulation (EC) No 594/2008[20],
— Council Regulation (EC) No 597/2009[21],
— Council Regulation (EC) No 260/2009[22],
— Council Regulation (EC) No 625/2009[23],
— Council Regulation (EC) No 1061/2009[24],
— Council Regulation (EC) No 1225/2009[25].

(4) In order to ensure legal certainty, the procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation should not be affected by this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Throughout the Regulations listed in the Annex:

(a) any reference to the words 'European Community', 'Community', 'European Communities' or 'Communities' shall be understood as a reference to the 'European Union' or 'Union';

(b) any reference to the words 'common market' shall be understood as a reference to the 'internal market';

(c) any reference to the words 'Committee provided for in Article 113', 'Committee provided for in Article 133', 'Committee referred to in Article 113' or 'Committee referred to in Article 133' shall be understood as a reference to 'Committee provided for in Article 207';

(d) any reference to the words 'Article 113 of the Treaty' or 'Article 133 of the Treaty' shall be understood as a reference to 'Article 207 of the Treaty'.

Article 3

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

(a) the Commission has adopted an act;

(b) consultation is required under one of the Regulations listed in the Annex and such consultation has been initiated; or

(c) a proposal is required under one of the Regulations listed in the Annex and the Commission has adopted such a proposal.

Article 4

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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

ANNEX

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

[F1]1. Regulation (EEC) No 2841/72

. . . . . .

Textual Amendments

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

[F2]2. Regulation (EEC) No 2843/72

. . . . . .

Textual Amendments

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

[F3]3. Regulation (EEC) No 1692/73

. . . . . .

Textual Amendments

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

[F4]4. Regulation (EC) No 3286/94

. . . . . .

Textual Amendments

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

5. Regulation (EC) No 385/96

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

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

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

"11 Without prejudice to Article 15(2), where it is apparent to the Commission that there is sufficient evidence to justify initiating a proceeding, it shall do so within 45 days of the date on which the complaint was lodged, or, in the case of initiation pursuant to paragraph 8, no later than six months from the time the sale of the vessel was known or should have been known, and shall publish a notice in the *Official Journal of the European Union*. Where insufficient evidence has been presented, the complainant shall be so informed within 45 days of the date on which the complaint was lodged with the Commission.

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

(2) Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

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

(b) paragraph 4 is replaced by the following:

"4 Where the facts as finally established show that there is injurious pricing and injury caused thereby, an injurious pricing charge shall be imposed on the shipbuilder by the Commission, in accordance with the examination procedure referred to in Article 10(2). The amount of the injurious pricing charge shall be equal to the margin of injurious pricing established. The Commission shall, after having informed the Member States, take the necessary measures for the implementation of its decision, in particular the collection of the injurious pricing charge.".

(3) In Article 8, the first paragraph is replaced by the following:

"The investigation may be terminated without the imposition of an injurious pricing charge if the shipbuilder definitively and unconditionally voids the sale of the injuriously priced vessel or complies with an alternative equivalent remedy accepted by the Commission.".

(4) Article 9(1) is replaced by the following:

"1 If the shipbuilder concerned does not pay the injurious pricing charge imposed under Article 7, countermeasures under the form of denial of loading and unloading rights shall be imposed by the Commission on the vessels built by the shipbuilder in question.

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

(5) Article 10 is replaced by the following: