COUNCIL REGULATION (EC) No 522/94

of 7 March 1994

on the streamlining of decision-making procedures for certain Community instruments of commercial defence and amending Regulations (EEC) No 2641/84 and No 2423/88

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas the common commercial policy must be based on uniform principles, in particular with regard to commercial defence;

Whereas instruments of commercial defence, in particular in respect of unfair trade practices, are an indispensable complement to an open market and fair trading system, thus contributing to the harmonious development of world trade;

Whereas the completion of the internal market in 1992 makes it appropriate to improve the functioning of the existing instruments of commercial defence against unfair trade practices;

Whereas it is therefore appropriate to streamline decision-making procedures laid down in certain instruments of commercial defence, in particular those for imposing definitive anti-dumping and countervailing duties;

Whereas it also appears appropriate to amend Council Regulation (EEC) No 2641/84 of 17 September 1984 on the strengthening of the common commercial policy with regard in particular to protection against illicit commercial practices [2] in respect of the Community decision-making mechanism for the initiation and the subsequent conduct and termination of dispute settlement proceedings within the context of any applicable multilateral rules;

Whereas, for the sake of consistency, the same procedures should apply to other possible international dispute settlement procedures in the area of the common commercial policy which fall within the scope of Regulation (EEC) No 2641/84, to the extent that this is not already the case;

Whereas, in order to ensure that the Community can act quickly in the defence of its commercial interest, provision should be made for the initiation, where appropriate, of international dispute settlement proceedings without the prior opening of the examination procedure laid down in Article 6 of Regulation (EEC) No 2641/84;

Whereas, therefore, it appears appropriate to amend Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [3], and Regulation (EEC) No 2641/84,

HAS ADOPTED THIS REGULATION:

TITLE I

Anti-dumping and countervailing duties

Article 1

Regulation (EEC) No 2423/88 shall be amended as follows:

1. In the last sentence of Article 11, (6) the terms 'qualified majority' shall be replaced by the terms 'simple majority'.

2. In Article 12 (1) and 2 (a), the terms 'qualified majority' shall be replaced by the terms 'simple majority'.

TITLE II

Strengthened commercial policy and illicit commercial practices

Article 2

Regulation (EEC) No 2641/84 shall be amended as follows:

1. In Article 1 the following paragraph shall be added:

   'It shall be applied in particular to the initiation and subsequent conduct and termination of international dispute settlement procedures in the area of common commercial policy.'

2. In Article 5 (2), the following sentence shall be added:

   'He shall also inform the Article 113 Special Committee thereof'.

[1] OJ No C 44, 14. 2. 1994.
[2] OJ No L 252, 20. 9. 1984, p. 7.
[3] OJ No L 209, 2. 8. 1988, p. 1. Regulation as amended by Regulation (EC) No 521/94 (see page 7 of this Official Journal).

3. In Article 10 (1) the introductory sentence shall be replaced by the following text:

'1. Unless the factual and legal situation is such that such an examination procedure may not be required, where it is found as a result of the examination procedure, that action is necessary in the interests of the Community in order to :'.

4. Article 11 shall be replaced by the following text:

'Article 11

Decision-making machinery

1. The decisions referred to in Articles 9 and 10 shall be adopted in accordance with the following provisions.

2. Where the Community follows formal international consultation or dispute settlement procedures, decisions relating to the initiation, conduct or termination of such procedures shall be taken in accordance with Article 12.

3. Where the Community, having acted in accordance with Article 10 (2) of this Regulation, has to take a decision on the measures of commercial policy to be adopted, the Council shall act, in accordance with Article 113 of the Treaty, by a qualified majority, not later than 30 working days after receiving the proposal.'

TITLE III

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities,* with the exception of the provisions of Article 2, which shall enter into force as of the date of entry into force of the Agreement establishing the World Trade Organization.

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

Done at Brussels, 7 March 1994.

For the Council

The President

Th. PANGALOS