COUNCIL REGULATION (EC) No 1515/2001

of 23 July 2001

on the measures that may be taken by the Community following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By Regulation (EC) No 384/96 [1], the Council adopted common rules for protection against dumped imports from countries which are not members of the European Community.

(2) By Regulation (EC) No 2026/97 [2] the Council adopted common rules for protection against subsidised imports from countries which are not members of the European Community.

(3) Under the Marrakesh Agreement establishing the World Trade Organisation ('WTO'), an Understanding on Rules and Procedures Governing the Settlement of Disputes ('DSU') was reached. Pursuant to the DSU, the Dispute Settlement Body ('DSB') was established.

(4) With a view to permitting the Community, where it considers this appropriate, to bring a measure taken under Regulation (EC) No 384/96 or Regulation (EC) No 2026/97 into conformity with the recommendations and rulings contained in a report adopted by the DSB, specific provisions must be introduced.

(5) The Community institutions may consider it appropriate to repeal, amend or adopt any other special measures with respect to measures taken under Regulation (EC) No 384/96 or Regulation (EC) No 2026/97, including measures which have not been the subject of dispute settlement under the DSU, in order to take account of the legal interpretations made in a report adopted by the DSB. In addition, the Community institutions should be able, where appropriate, to suspend or review such measures.

(6) Recourse to the DSU is not subject to time limits. The recommendations in reports adopted by the DSB only have prospective effect. Consequently, it is appropriate to specify that any measures taken under this Regulation will take effect from the date of their entry into force, unless otherwise specified, and, therefore, do not provide any basis for the reimbursement of the duties collected prior to that date,

HAS ADOPTED THIS REGULATION:

Article 1

1. Whenever the DSB adopts a Report concerning a Community measure taken pursuant to Council Regulation (EC) No 384/96, Regulation (EC) No 2026/97 or to this Regulation ('disputed measure'), the Council may, acting by simple majority on a proposal submitted by the Commission after consultation of the Advisory Committee established pursuant to Article 15 of Regulation (EC) No 384/96 or Article 25 of Regulation (EC) No 2026/97 ('Advisory Committee'), take one or more of the following measures, whichever it considers appropriate:

(a) repeal or amend the disputed measure or;

(b) adopt any other special measures which are deemed to be appropriate in the circumstances.

2. For the purpose of taking measures under paragraph 1, the Commission may request interested parties to provide all necessary information in order to complete the information obtained during the investigation that resulted in the adoption of the disputed measure.

3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measures under paragraph 1, such review shall be initiated by the Commission, after consultation of the Advisory Committee.

4. Insofar as it is appropriate to suspend the disputed or amended measure, such suspension shall be granted for a limited period of time by the Council, acting by simple majority on a proposal submitted by the Commission after consultation of the Advisory Committee.

Article 2

1. The Council may also take any of the measures mentioned in Article 1(1) in order to take into account the legal interpretations made in a report adopted by the DSB with regard to a non-disputed measure, if it considers this appropriate.

[1] OJ L 56, 6.3.1996, p. 1, Regulation as last amended by Regulation (EC) No 2238/2000. (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 288, 21.10.1997, p. 1.

2. For the purpose of taking measures under paragraph 1, the Commission may request interested parties to provide all necessary information in order to complete the information obtained during the investigation that resulted in the adoption of the non-disputed measure.

3. Insofar as it is appropriate to conduct a review before or at the same time as taking any measures under paragraph 1, such review shall be initiated by the Commission after consultation of the Advisory Committee.

4. Insofar as it is appropriate to suspend the non-disputed or amended measure, such suspension shall be granted for a limited period of time by the Council, acting by simple majority on a proposal submitted by the Commission after consultation of the Advisory Committee.

Article 3

Any measures adopted pursuant to this Regulation shall take effect from the date of their entry into force and shall not serve as basis for the reimbursement of the duties collected prior to that date, unless otherwise provided for.

Article 4

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It applies to reports adopted after 1 January 2001 by the DSB.

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

Done at Brussels, 23 July 2001.

For the Council

The President

A. NEYTS-UYTTEBROECK