

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice regarding the ruling of the Dispute Settlement Body of the World Trade Organisation
adopted on 28 July 2011***(2012/C 86/04)*

This notice is published pursuant to Council Regulation (EC) No 1515/2001 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 ⁽¹⁾ ('the WTO enabling Regulation').

On 28 July 2011, the Dispute Settlement Body of the WTO ('DSB') adopted an Appellate Body report and a Panel report as modified by the Appellate Body report on the case 'European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China' ('reports') ⁽²⁾.

In the reports, it was found, inter alia, that Article 9(5) of Council Regulation (EC) No 1225/2009 ⁽³⁾ ('the Basic Regulation') was inconsistent with Articles 6.10, 9.2 and 18.4 of the WTO Anti-Dumping Agreement and Article XVI:4 of the WTO Agreement. Article 9(5) of the Basic Regulation provides that individual exporting producers in non-market economy countries which do not receive market economy treatment pursuant to Article 2(7)(c) of the Basic Regulation will be subject to a countrywide duty rate unless such exporters can demonstrate that they meet the conditions for individual treatment laid out in Article 9(5) of the Basic Regulation ('the DSB finding on Article 9(5) of the Basic Regulation').

The purpose of this notice is to inform parties of the manner in which the DSB finding on Article 9(5) of the Basic Regulation will be taken into account in respect of anti-dumping measures in force. The implementation of the DSB findings contained in

the reports with regard to Council Regulation (EC) No 91/2009 ⁽⁴⁾ will be the subject of a separate notice.

A non-exhaustive list of measures in force concerned by this notice is attached in the Annex.

The Commission invites any exporting producer in non-market economy countries which considers that such measures should be reviewed in the light of the legal interpretations regarding Article 9(5) contained in the reports to request a review on the basis of Article 2 of the WTO enabling Regulation.

The relevant Union institution may repeal, amend or maintain the measures reviewed in order to reflect the review findings. Parties requesting a review should be aware that if the findings relating to them require an amendment of the measures, such amendment may result in a decrease or an increase in the level of the measures.

Once a review has been initiated, the Commission reserves the right to finalise it even if the party requesting the review decides to withdraw the review request.

(a) Conditions for reviews of measures in force

Following the reports, the Commission intends to consider applications for reviews pursuant to the WTO enabling Regulation: 1. where the applicant was denied individual treatment in accordance with the provisions of Article 9(5) of the Basic Regulation, or 2. where the applicant considers that it was discouraged from cooperating and requesting individual treatment in the investigation leading to the adoption of the anti-dumping measures because of the administrative burden imposed by Article 9(5) of the Basic Regulation or because it considered that it did not meet all criteria required by Article 9(5) of the Basic Regulation.

⁽¹⁾ OJ L 201, 26.7.2001, p. 10.

⁽²⁾ WTO, report of the Appellate Body, AB-2011-2, WT/DS397/AB/R, 15 July 2011. WTO, report of the Panel, WT/DS397/R, 29 September 2010. The reports can be downloaded from the WTO's website (http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds397_e.htm).

⁽³⁾ OJ L 343, 22.12.2009, p. 51.

⁽⁴⁾ OJ L 29, 31.1.2009, p. 1.

(b) *Procedure*

To be admissible, an application shall:

- (i) state that the anti-dumping measure to which the applicant's exports to the European Union are subject is based on circumstances mentioned in point (a) above; and
- (ii) contain information on export quantities to the European Union and export prices and comparison within the meaning of Article 2 of the Basic Regulation covering the investigation period on the basis of which the applicable anti-dumping duty was based.

Should the use of export data from the applicant covering the original investigation period become impracticable (e.g., because the original investigation period is too remote in time and there are no verifiable records of the export data), the Commission would explore the possibility in duly justified cases of initiating a review for a recent investigation period. In that case, information should normally cover at least the last six months prior to the publication of the present notice.

In any event, the right to submit a request for an interim review in accordance with Article 11(3) of the Basic Regulation remains unaffected.

Any written application for a review shall be addressed to:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 04/092
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22956505

E-mail: TRADE-defence-complaints@ec.europa.eu

The Commission will process the applications for reviews based on the WTO enabling Regulation within a reasonable period of time, and will publish a notice of initiation of such reviews if a duly substantiated application is received.

In line with Article 3 of the WTO enabling Regulation, any measures adopted pursuant to that Regulation following a review will not have retroactive effect.

ANNEX

Non-exhaustive list of measures in force concerned by this notice

Country	Product	Type of measures	Legal Act	Official Journal publication reference
Kazakhstan	Ferro-silicon	Duties	Council Regulation (EC) No 172/2008 of 25.2.2008	L 55, 28.2.2008, p. 6
	Silico-manganese	Duties	Council Regulation (EC) No 1420/2007 of 4.12.2007 as last amended by Council Regulation (EC) No 865/2008 of 27.8.2008	L 317, 5.12.2007, p. 5
People's Republic of China	Aluminium foil	Duties	Council Regulation (EC) No 925/2009 of 24.9.2009	L 262, 6.10.2009, p. 1
	Aluminium road wheels	Duties	Council Implementing Regulation (EU) No 964/2010 of 25.10.2010	L 282, 28.10.2010, p. 1
	Barium carbonate	Duties	Council Regulation (EC) No 1175/2005 of 18.7.2005 maintained by Council Implementing Regulation (EU) No 831/2011 of 16.8.2011	L 189, 21.7.2005, p. 15 L 214, 19.8.2011, p. 1
	Bicycles	Duties	Council Regulation (EEC) No 2474/93 of 8.9.1993 maintained by Council Implementing Regulation (EU) No 990/2011 of 3.10.2011	L 228, 9.9.1993, p. 1 L 261, 6.10.2011, p. 2
	Candles, tapers and the like	Duties	Council Regulation (EC) No 393/2009 of 11.5.2009	L 119, 14.5.2009, p. 1
	Cargo scanning systems	Duties	Council Implementing Regulation (EU) No 510/2010 of 14.6.2010	L 150, 16.6.2010, p. 1
	Ceramic tiles	Duties	Council Implementing Regulation (EU) No 917/2011 of 12.9.2011	L 238, 15.9.2011, p. 1
	Chamois leather	Duties	Council Regulation (EC) No 1338/2006 of 8.9.2006	L 251, 14.9.2006, p. 1
	Citric acid	Duties Undertakings	Council Regulation (EC) No 1193/2008 of 1.12.2008	L 323, 3.12.2008, p. 1
	Citrus fruits	Duties	Council Regulation (EC) No 1355/2008 of 18.12.2008	L 350, 30.12.2008, p. 35
	Coated fine paper	Duties	Council Implementing Regulation (EU) No 451/2011 of 6.5.2011	L 128, 14.5.2011, p. 1
	Coke of coal in pieces with a diameter of more than 80 mm	Duties	Council Regulation (EC) No 239/2008 of 17.3.2008	L 75, 18.3.2008, p. 22
	Dicyandiamide	Duties	Council Regulation (EC) No 1331/2007 of 13.11.2007	L 296, 15.11.2007, p. 1
	Ferro-silicon	Duties	Council Regulation (EC) No 172/2008 of 25.2.2008	L 55, 28.2.2008, p. 6

Country	Product	Type of measures	Legal Act	Official Journal publication reference
	Furfuraldehyde	Duties	Council Regulation (EC) No 95/95 of 16.1.1995 maintained by Council Implementing Regulation (EU) No 453/2011 of 4.5.2011	L 15, 21.1.1995, p. 11 L 123, 12.5.2011, p. 1
	Glass fibre products (continuous filament)	Duties	Council Implementing Regulation (EU) No 248/2011 of 9.3.2011	L 67, 15.3.2011, p. 1
	Glass fibres (certain open mesh fabrics)	Duties	Council Implementing Regulation (EU) No 791/2011 of 3.8.2011	L 204, 9.8.2011, p. 1
	Hand pallet trucks and their essential parts	Duties	Council Regulation (EC) No 1174/2005 of 18.7.2005 as last amended by Council Regulation (EC) No 684/2008 of 17.7.2008 maintained by Council Implementing Regulation (EU) No 1008/2011 of 10.10.2011	L 189, 21.7.2005, p. 1 L 192, 19.7.2008, p. 1 L 268, 13.10.2011, p. 1
	Ironing boards	Duties	Council Regulation (EC) No 452/2007 of 23.4.2007 as last amended by Council Implementing Regulation (EU) No 77/2010 of 19.1.2010 and Council Implementing Regulation (EU) No 270/2010 of 29.3.2010 and Council Implementing Regulation (EU) No 580/2010 of 29.6.2010 and Council Implementing Regulation (EU) No 1241/2010 of 20.12.2010	L 109, 26.4.2007, p. 12 L 24, 28.1.2010, p. 1 L 84, 31.3.2010, p. 13 L 168, 2.7.2010, p. 12 L 338, 22.12.2010, p. 8
	Ironing boards (Since Hardware)	Duties	Council Implementing Regulation (EU) No 1243/2010 of 20.12.2010	L 338, 22.12.2010, p. 22
	Lever arch mechanisms	Duties	Council Regulation (EC) No 1136/2006 of 24.7.2006	L 205, 27.7.2006, p. 1
	Lighters (non-refillable and refillable)	Duties	Council Regulation (EEC) No 3433/91 of 25.11.1991 maintained by Council Regulation (EC) No 1458/2007 of 12.12.2007	L 326, 28.11.1991, p. 1 L 326, 12.12.2007, p. 1
	Melamine	Duties	Council Implementing Regulation (EU) No 457/2011 of 10.5.2011	L 124, 13.5.2011, p. 2
	Molybdenum wires	Duties	Council Implementing Regulation (EU) No 511/2010 of 14.6.2010	L 150, 16.6.2010, p. 17
	Monosodium glutamate	Duties	Council Regulation (EC) No 1187/2008 of 27.11.2008	L 322, 2.12.2008, p. 1
	Okoumé plywood	Duties	Council Regulation (EC) No 1942/2004 of 2.11.2004 maintained by Council Implementing Regulation (EU) No 82/2011 of 31.1.2011	L 336, 12.11.2004, p. 4 L 28, 2.2.2011, p. 1

Country	Product	Type of measures	Legal Act	Official Journal publication reference
	Peroxosulphates	Duties	Council Regulation (EC) No 1184/2007 of 9.10.2007	L 265, 11.10.2007, p. 1
	Plastic sacks and bags	Duties	Council Regulation (EC) No 1425/2006 of 25.9.2006 corrected by OJ L 49, 17.2.2007, p. 36 and by OJ L 233, 5.9.2007, p. 7 as last amended by Council Regulation (EC) No 249/2008 of 17.3.2008 and Council Regulation (EC) No 189/2009 of 9.3.2009 as last amended by Council Implementing Regulation (EU) No 474/2011 of 3.5.2011	L 270, 29.9.2006, p. 4 L 76, 19.3.2008, p. 8 L 67, 12.3.2009, p. 5 L 131, 18.5.2011, p. 2
	Polyester yarn (high tenacity)	Duties	Council Implementing Regulation (EU) No 1105/2010 of 29.11.2010	L 315, 1.12.2010, p. 1
	Polyethylene terephthalate (PET)	Duties	Council Regulation (EC) No 1467/2004 of 13.8.2004 as last amended by Council Regulation (EC) No 2167/2005 of 20.12.2005 maintained by Council Implementing Regulation (EU) No 1030/2010 of 17.11.2010	L 271, 19.8.2004, p. 1 L 345, 28.12.2005, p. 11 L 300, 17.11.2010, p. 1
	Powdered activated carbon (PAC)	Duties	Council Regulation (EC) No 1006/96 of 3.6.1996 maintained by Council Regulation (EC) No 649/2008 of 8.7.2008	L 134, 5.6.1996, p. 20 L 181, 10.7.2008, p. 1
	PSC wires and strands	Duties	Council Regulation (EC) No 383/2009 of 5.5.2009	L 118, 13.5.2009, p. 1
	Ring binders	Duties	Council Regulation (EC) No 119/97 of 20.1.1997 maintained by Council Implementing Regulation (EU) No 157/2010 of 22.2.2010	L 22, 24.1.1997, p. 1 L 49, 26.2.2010, p. 1
	Saddles	Duties	Council Regulation (EC) No 691/2007 of 18.6.2007	L 160, 21.6.2007, p. 1
	Seamless pipes and tubes of iron or steel	Duties	Council Regulation (EC) No 926/2009 of 24.9.2009	L 262, 6.10.2009, p. 19
	Seamless pipes and tubes of stainless steel	Duties	Council Implementing Regulation (EU) No 1331/2011 of 14.12.2011	L 336, 20.12.2011, p. 6
	Silico-manganese	Duties	Council Regulation (EC) No 1420/2007 of 4.12.2007 as last amended by Council Regulation (EC) No 865/2008 of 27.8.2008	L 317, 5.12.2007, p. 5

Country	Product	Type of measures	Legal Act	Official Journal publication reference
	Silicon metal	Duties	Council Regulation (EEC) No 2200/90 of 27.7.1990 maintained by Council Implementing Regulation (EU) No 467/2010 of 25.5.2010	L 198, 28.7.1990, p. 57 L 131, 29.5.2010, p. 1
	Sodium cyclamate	Duties	Council Regulation (EC) No 435/2004 of 8.3.2004 maintained by Council Implementing Regulation (EU) No 492/2010 of 3.6.2010	L 72, 11.3.2004, p. 1 L 140, 8.6.2010, p. 2
	Sodium gluconate	Duties	Council Implementing Regulation (EU) No 965/2010 of 25.10.2010	L 282, 28.10.2010, p. 24
	Stainless steel fasteners and parts thereof	Duties	Council Regulation (EC) No 1890/2005 of 14.11.2005 corrected by OJ L 256, 2.10.2007, p. 31 maintained by Council Implementing Regulation (EU) No 2/2012 of 4.1.2012	L 302, 19.11.2005, p. 1 L 5, 7.1.2012, p. 1
	Steel fasteners (iron or steel)	Duties	Council Regulation (EC) No 91/2009 of 26.1.2009	L 29, 31.1.2009, p. 1
	Steel ropes and cables	Duties	Council Regulation (EC) No 1796/1999 of 12.8.1999 maintained by Council Implementing Regulation (EU) No 102/2012 of 27.1.2012	L 217, 17.8.1999, p. 1 L 36, 9.2.2012, p. 1
	Strawberries (frozen)	Duties	Council Regulation (EC) No 407/2007 of 16.4.2007	L 100, 17.4.2007, p. 1
	Sulphanilic acid	Duties	Council Regulation (EC) No 1339/2002 of 22.7.2002 as last amended by Council Regulation (EC) No 123/2006 of 23.1.2006 maintained by Council Regulation (EC) No 1000/2008 of 13.10.2008	L 196, 25.7.2002, p. 11 L 22, 26.1.2006, p. 5 L 275, 16.10.2008, p. 1
	Tartaric acid	Duties	Council Regulation (EC) No 130/2006 of 23.1.2006 as last amended by Council Regulation (EC) No 150/2008 of 18.2.2008	L 23, 27.1.2006, p. 1 L 48, 22.2.2008, p. 1
	Trichloroisocyanuric acid	Duties	Council Regulation (EC) No 1631/2005 of 3.10.2005 maintained by Council Implementing Regulation (EU) No 1389/2011 of 19.12.2011	L 261, 7.10.2005, p. 1 L 346, 30.12.2011, p. 6

Country	Product	Type of measures	Legal Act	Official Journal publication reference
	Tube and pipe fitting, of iron or steel	Duties	Council Regulation (EC) No 584/96 of 11.3.1996 maintained by Council Regulation (EC) No 803/2009 of 27.8.2009	L 84, 3.4.1996, p. 1 L 233, 4.9.2009, p. 1
	Tungsten carbide and fused tungsten carbide	Duties	Council Regulation (EEC) No 2737/90 of 24.9.1990 maintained by Council Implementing Regulation (EU) No 287/2011 of 21.3.2011	L 264, 27.9.1990, p. 7 L 78, 24.3.2011, p. 1
	Tungsten electrodes	Duties	Council Regulation (EC) No 260/2007 of 9.3.2007	L 72, 13.3.2007, p. 1
	Welded tubes and pipes, of iron or non-alloy steel	Duties	Council Regulation (EC) No 1256/2008 of 16.12.2008	L 343, 19.12.2008, p. 1
	Wire rod	Duties	Council Regulation (EC) No 703/2009 of 27.7.2009	L 203, 5.8.2009, p. 1
Armenia	Aluminium foil	Duties	Council Regulation (EC) No 925/2009 of 24.9.2009	L 262, 6.10.2009, p. 1