Additional customs duties on imports of certain products originating in the USA. Codification

2014/0175(COD) - 17/07/2015

PURPOSE: codification of Council Regulation (EC) No 673/2005 of 25 April 2005 establishing additional customs duties on imports of certain products originating in the United States of America.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: on 27 January 2003, the Dispute Settlement Body ('DSB') of the World Trade Organisation ('WTO') adopted the Appellate Body report and the Panel report finding that the **Continued Dumping and Subsidy Offset Act** ('CDSOA') was incompatible with the United States' obligations under the WTO agreements.

Since the United States failed to bring its legislation into conformity with the relevant agreements, the Community requested authorisation from the DSB to suspend the application of its tariff concessions and related obligations under the General Agreement on Tariffs and Trade ('GATT') 1994 to the United States. The United States objected to the level of suspension of tariff concessions and related obligations and the matter was referred to arbitration. On 26 November 2004, the DSB granted the authorisation to suspend the application to the United States of tariff concessions and related obligations under GATT 1994 in accordance with the decision of the Arbitrator.

The CDSOA disbursements for the most recent year for which data were available at that time relate to the distribution of anti-dumping and countervailing duties collected during the fiscal year 2004. On the basis of the data published by the United States' Customs and Border Protection, the level of nullification or impairment caused to the Community was calculated at USD 27.81 million. The Community was, therefore, **authorised to suspend the application of its tariff concessions to the United States for an equivalent amount.**

The effect of a 15 % ad valorem additional import duty on imports of the products in Annex I originating in the United States represented a value of trade that did not exceed USD 27.81 million. In respect of those products, the Community suspended the application of its tariff concessions to the United States from 1 May 2005.

CONTENT: on 12 June 2014, the Commission presented a proposal for a Regulation of the European Parliament and of the Council codifying Council Regulation (EC) No 673/2005 of 25 April 2005 establishing additional customs duties on imports of certain products originating in the United States of America. In its opinion of 17 September 2014 the Consultative Working Party of the legal services stated that the proposal was confined to a straightforward codification, without any substantive changes to the acts covered by it.

Having regard to the amendment adopted to the proposal, **the Commission has decided to an amended proposal** for codification of the Regulation in question.

Additional duty: the amended proposal provides that the tariff concessions and related obligations under GATT 1994 of the Union are suspended in respect of products originating in the United States listed in

Annex I to this Regulation. It provides that **an ad valorem duty of 1.5 % additional to the customs duty applicable under Council Regulation (EEC) No 2913/9210 shall be imposed on the products originating in the United States listed in Annex I.** This duty will be added to customs duties payable under Council Regulation (EEC) No 2913 establishing the Community Customs Code.

Annual adjustment: if the non-implementation of the DSB ruling and recommendation persists, the Commission should adjust annually the level of suspension to the level of nullification or impairment caused by the CDSOA to the Union at that time. The Commission should, whilst respecting certain criteria, **amend the list in Annex I or the rate of the additional import duty** so that the effect of the additional duty on imports from the United States of the selected products represents, over one year, a value of trade that does not exceed the amount of nullification or impairment (being USD 27.81 million.).

A further amendment aims to add Commission Delegated Regulation (EU) 2015/675 to Annex III.