Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries

2018/0101(COD) - 18/04/2018 - Legislative proposal

PURPOSE: to implement safeguard clauses and other mechanisms allowing for the temporary withdrawal of tariff preferences in certain agreements concluded between the European Union, on the one hand, and certain third countries, on the other.

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: the majority of the EU trade agreements include a **bilateral safeguard clause**. This clause provides for the possibility to suspend the further tariff liberalization or to re-instate the Most Favoured Nation (MFN) customs duty rate when, as a result of trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the domestic producers producing the like or directly competitive product.

In addition, some EU trade agreements may include **special mechanisms** which also confer the possibility to reintroduce the MFN customs duty rate.

It is necessary to lay down the procedures to guarantee the effective application of the safeguard clauses that will have been agreed with the countries concerned. The Agreements may also include other mechanisms for temporary withdrawal of tariff or of other preferential treatment. It is also necessary to lay down the procedures for the application of such mechanisms, where included in the Agreements.

So far, it has been a consistent practice that the Commission proposed an implementing regulation in conjunction with each separate recent trade agreement. Based on past experience and existing regulations, it is suggested that the whole **process could be streamlined by proposing a horizontal bilateral safeguard regulation** which could be used for all future FTAs

CONTENT: the proposal for a Regulation lays down provisions for the **implementation of the bilateral safeguard clauses and other mechanisms** on the temporary withdrawal of tariff preferences or other preferential treatment contained in the Agreements concluded between the Union and a third country referred to in the Annex to the Regulation.

The proposed Regulation would specify the **procedural details and technical aspects** common to any bilateral safeguard instrument (initiation and conduct of investigations, procedures for the provisional adoption and definitive measures, duration and review of safeguard measures, adoption of prior surveillance measures on imports from a country concerned, etc.).

A separate chapter would set the **procedural rules concerning special mechanisms**. An **Annex** would reflect the applicability of the regulation for a specific FTA partner in question as well as any specificities of the trade agreement in question.

The Regulation for the moment foresees the implementation of the **EU-Singapore Free Trade Agreement (FTA), the EU-Vietnam FTA and the EU-Japan FTA**. It is also proposed that future trade agreements would be added to the scope of the regulation by delegated acts.