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

2014/0175(COD) - 05/03/2019 - Follow-up document

The Commission presented a report on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) 2018/196 of the European Parliament and the Council on additional custom duties on imports of certain products originating in the United States of America.

This Regulation, which entered into force on 8 March 2018, is a codification of Council Regulation (EC) No 673/2005 establishing additional custom duties on imports of certain products originating in the United States of America. This Council Regulation sets out the procedure for adjusting the annual level of retaliation applied in the WTO dispute on the United States' Continued Dumping and Subsidy Offset Act of 2000 ('CDSOA', or the Byrd Amendment).

The CDSOA was found incompatible with the United States' WTO obligations in January 2003. Given that the United States failed to bring itself in compliance with its obligations under the WTO agreements, the EU was authorised to impose an additional import duty above bound customs duties on a list of US products covering on a yearly basis a total value of trade not exceeding the amount of 72% of the CDSOA disbursement from duties collected on imports from the EU for the most recent year for which data are available.

Following the codification of Council Regulation (EC) No 673/2005, the power to adopt delegated acts was conferred upon the Commission for a period of five years from 20 February 2014.

As the EU Regulation entered into force on 8 March 2018, no delegated acts have been adopted so far. However, since 20 February 2014 the Commission has adopted four (4) delegated acts based on the Council Regulation (EC) No 673/2005 (the predecessor of the EU Regulation) as follows:

- Commission Delegated Regulation (EU) 2015/675 of 26 February 2015 establishing an additional import duty of 1.5% on the products listed in Annex I;

- Commission Delegated Regulation (EU) 2016/654 of 26 February 2016 Council Regulation (EC) No 673/2005 establishing an additional import duty of 0.45% on the products listed in Annex I;

- Commission Delegated Regulation (EU) 2017/750 of 24 February 2017 establishing an additional import duty of 4.3% on the products listed in Annex I; and

- Commission Delegated Regulation (EU) 2018/632 of 19 February 2018 establishing an additional import duty of 0.3% on the products listed in Annex I.

The power to adopt each of the delegated acts listed above was exercised in order to accurately adjust the yearly level of additional import duty to the actual amount of nullification and impairment calculated based on the amount of duties collected on EU products in the most recent yearly distributions by the United States under the CDSOA. In each of the above cases, this adjustment led to a modification of the additional applied duty rate on the limitative list of products listed in Annex 1 to the EU Regulation.