

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

2025/0012(COD) - 03/02/2025 - Legislative proposal

**PURPOSE:** to amend Regulation (EU) 2018/196 by including a *de minimis* threshold for the imposition of retaliation applied in relation to the WTO dispute on the United States' Continued Dumping and Subsidy Offset Act of 2000 ('CDSOA', or the Byrd Amendment).

**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 United States Continued Dumping and Subsidy Offset Act (CDSOA) mandates the yearly distribution of the anti-dumping and countervailing duties collected during the previous fiscal year to US companies. The CDSOA was found incompatible with the United States' WTO obligations in January 2003.

Since the United States failed to bring its legislation into conformity with the WTO agreements, the European Community requested authorisation from the Dispute Settlement Body (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 31 August 2004, the Arbitrator determined that the level of nullification or impairment caused every year to the Community was equal to **72 %** of the amount of CDSOA disbursements relating to anti-dumping or countervailing duties paid on imports from the Community for the most recent year for which data were available at that time, as published by the United States' authorities.

As a result of the United States' failure to bring the CDSOA in compliance with its obligations under the WTO agreements, pursuant to Regulation (EU) 2018/196 of the European Parliament and of the Council, a **4.3 % *ad valorem*** additional customs duty was imposed on imports of certain products originating in the United States. In conformity with the WTO authorisation to suspend the application of concessions to the United States, the Commission is to adjust the level of suspension annually to the level of nullification or impairment caused by the CDSOA to the Union at that time.

In recent years, the level of nullification or impairment caused to the Union on the basis of the data published by the United States' Customs and Border Protection has decreased. For example, in 2024, it was calculated at USD 34.98 resulting in a rate of additional import duty of 0.00002 % on sweet corn, frames and mountings for spectacles, crane lorries, and certain items of women's or girls' apparel in denim that originate in the US.

As applying such a low duty would have had no trade impact and would have imposed a disproportionate administrative cost to the Union, with Commission Delegated Regulation (EU) 2024/1239 the additional rate of duty as from 1 May 2024 was set at 0 %.

Having to adopt a Commission Delegated Regulation each year, even when retaliation is negligible, is not an efficient use of resources. Thus, in order to promote efficiency and proportionality, a *de minimis* threshold below which additional import duties should not be imposed should be added to Regulation (EU) 2018/196.

CONTENT: the proposal to amend Regulation (EU) 2018/196 introduces a *de minimis* threshold below which additional import duties should not be imposed. This threshold should be set at **USD 30 000** of relevant disbursements made by US authorities in one fiscal year. Disbursement amounting to USD 30 000, keeping the current list of goods in Annex I, would result in an additional rate of duty of about 0.01 %.

Additional custom duties equal or below 0.01 % that would apply in the absence of a *de minimis* provision on the few tariff lines currently included in Annex I do not appear to justify the administrative costs that would be incurred by the Union if these duties were imposed. Below this threshold the duties have no trade impact and are thus economically negligible.

### ***Budgetary implications***

Whenever the *de minimis* would apply, the European Union would see a loss of maximum **USD 21 600** (which is the authorised level of retaliation corresponding to USD 30 000 of CDSOA related disbursements) of customs revenue in one fiscal year. On the other hand, the human and administrative resources necessary to adjust and impose the additional customs duty would not be used. Therefore, the impact on Union's own resources will be very limited.