



Council of the
European Union

Brussels, 19 April 2018
(OR. en)

8141/18

**Interinstitutional File:
2018/0101 (COD)**

**COMER 36
WTO 94
CODEC 583**

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	18 April 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 206 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the European Union and certain third countries

Delegations will find attached document COM(2018) 206 final.

Encl.: COM(2018) 206 final



Brussels, 18.4.2018
COM(2018) 206 final

2018/0101 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**implementing the safeguard clauses and other mechanisms allowing for the temporary
withdrawal of preferences in certain agreements concluded between the European
Union and certain third countries**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

This proposal concerns the incorporation into European Union law of the (i) safeguard clauses and (ii) any special mechanisms for withdrawal of tariff preferences or other preferential treatments requiring an implementing regulation foreseen in future trade agreements concluded by the EU.

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.

- **Consistency with existing policy provisions in the policy area**

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 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.

In order for these measures to be operational, this bilateral safeguard clause and any special mechanism should be incorporated in European Union law, and the procedural aspects of their application as well as the rights of interested parties need to be specified.

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. The body of the text of the regulation would focus on the common technical and procedural details of the bilateral safeguard instrument (conduct of investigations, procedures for provisional and definitive measures, 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 Annexes containing the few elements that are specific to each individual agreement would be amended via delegated acts. The delegated acts would be implementing the trade agreements that are already approved by the European Parliament and the Council and would thus provide the Commission with very limited political choice.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The attached proposal for a Regulation of the European Parliament and of the Council constitutes the legal instrument for the implementation of the safeguard clauses and any special mechanisms of the EU Trade Agreement.

Article 207(2) of the Treaty on the Functioning of the European Union.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

This proposal for a Regulation is directly derived from the texts of the Agreements negotiated with various other countries such as, Colombia, Peru, Central American countries, the Republic of Moldova and Georgia. Consequently, neither a separate consultation with interested parties nor any impact assessment is necessary. It is largely based on existing implementing regulations.

4. BUDGETARY IMPLICATIONS

5. OTHER ELEMENTS

An annual report will be provided to the Council and EP setting out trade statistics with the relevant FTA partner as well as information on the application of this regulation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the European Union and certain third countries

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union regularly concludes trade agreements ('Agreements') with third countries which may include bilateral safeguard clauses. 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.
- (2) 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.
- (3) Bilateral safeguard measures may be considered only where the product in question is imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under such conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competing products. Bilateral safeguard measures should take one of the forms referred to in the Agreement.
- (4) The follow up and review of the Agreements, the conduct of investigations and, where appropriate, the imposition of safeguard measures should be carried out transparently.
- (5) Member States should inform the Commission, of any trends in imports which might call for the application of safeguard measures.
- (6) The reliability of statistics of all imports from the countries concerned to the Union is therefore crucial when determining whether the conditions to apply safeguard measures are met.
- (7) Close monitoring of sensitive products, if any, should facilitate a timely decision concerning the possible initiation of an investigation and subsequent application of measures. Therefore the Commission should regularly monitor imports of sensitive products, if any, from the date of provisional application or entry into force of the Agreements, if there is no provisional application. Monitoring should be extended to other sectors upon a duly justified request made by the relevant industry.

- (8) It is also necessary to set time limits for the initiation of an investigation and for determinations as to whether safeguard measures are appropriate, with a view to ensuring that such determinations are made quickly, in order to increase legal certainty for the economic operators concerned.
- (9) An investigation should precede the application of any safeguard measure, subject to the Commission being allowed to apply provisional safeguard measures in critical circumstances.
- (10) Safeguard measures should be applied only to the extent, and for such time, as may be necessary to prevent serious injury and to facilitate adjustment. The maximum duration of safeguard measures should be determined and specific provisions regarding extension and review of such measures should be laid down.
- (11) The Commission should enter into consultations with the countries concerned affected by measures if the specific agreements so require.
- (12) In order to add or to delete an Agreement from the Annex, to add any provisions laying down special rules included in an Agreement to the Annex, or to add products identified as "sensitive" to the Annex, the Annex should be amended. In order to amend the Annex to this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.
- (13) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (14) The implementation of the safeguard clauses or other mechanisms and criteria for the temporary suspension of tariff or other preferences provided for in the Agreements require uniform conditions for the adoption of provisional and definitive safeguard measures, for the imposition of prior surveillance measures, for the termination of an investigation without measures and for suspending temporarily the preferential tariffs or other preferential treatment.
- (15) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (16) The advisory procedure should be used for the adoption of surveillance and provisional safeguard measures given the effects of those measures and their sequential logic in relation to the adoption of definitive safeguard measures. The examination procedure should apply to the imposition of definitive safeguard measures and for the reviews of such measures.
- (17) The Commission should adopt immediately applicable implementing acts where, in duly justified cases, a delay in the imposition of provisional safeguard measures would cause damage which would be difficult to repair or to prevent a negative impact on the Union market as a result of an increase in imports where imperative grounds of urgency so require.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (18) The Commission should submit an annual report to the European Parliament and the Council on the implementation of the Agreements in the Annex to this Regulation and the application of the safeguard measures.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter and scope

1. This 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.
2. This Regulation shall apply without prejudice to any special provisions contained in the Agreements referred to in the Annex.
3. Article 194 of Regulation (EU) No 1308/2013 shall continue to apply for the implementation of safeguard measures and other mechanisms contained in Agreements concluded between the Union and third countries that are not referred to in the Annex².

Article 2

Definitions

1. For the purposes of this Regulation:

- (a) ‘bilateral safeguard clause’ means a provision set out in an Agreement between the Union and one or more third countries concerned referred to in the Annex on the temporary suspension of tariff preferences;
- (b) ‘interested parties’ means parties affected by the imports of the product;
- (c) ‘Union industry’ means the Union producers as a whole of the like or directly competitive products, operating within the territory of the Union, or Union producers whose collective output of the like or directly competitive products constitutes a major proportion of the total Union production of those products, or, where a like or a directly competitive product is only one of several products that are made by the Union producers, the Union industry shall be defined in relation to the specific operations that are involved in the production of the like or directly competitive product;
- (d) ‘serious injury’ means a significant overall impairment to the position of Union industry;
- (e) ‘threat of serious injury’ to the position of Union industry means serious injury that is clearly imminent;
- (f) ‘sensitive product’ means a product identified in a specific agreement as being relatively more vulnerable to a surge of imports than other products;
- (g) ‘Agreement’ means a trade agreement referred to in the Annex;

² Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79 and (EC) No 1234/2007 (OJ L 347, 20122013, p. 671).

- (h) ‘transition period’ means a period of 10 years from the entry into force of the Agreement, unless otherwise defined in the relevant Agreement referred to in the Annex;
- (i) ‘country concerned’ means a country that is a party to an Agreement referred to in the Annex.

Article 3

Principles

1. A safeguard measure may be imposed in accordance with this Regulation where a product originating in a country concerned is imported into the Union:

- (a) in such increased quantities, in absolute terms or relative to Union production, and under such conditions,
- (b) as to cause or threaten to cause serious injury to the Union industry; and,
- (c) the increase of imports is the result of the effect of obligations incurred under the respective Agreement concluded between the Union and a third country, including of the reduction or the elimination of the customs duties on that product.

2. A safeguard measure may take one of the following forms:

- (a) a suspension of a further reduction of the rate of customs duty on the product concerned provided for in the Tariff Elimination Schedule of the Agreement with the country concerned;
- (b) an increase in the rate of customs duty on the product concerned to a level which does not exceed the lesser of:
 - i) the most-favoured-nation applied rate of customs duty on the product concerned in effect at the time the safeguard measure is taken; or
 - ii) the base rate of customs duty as specified in the Tariff Elimination Schedule of the Agreement with the country concerned.

Article 4

Monitoring

1. The Commission shall monitor the evolution of import statistics of sensitive products, if any, mentioned in Annex in respect of each Agreement. For that purpose, the Commission shall cooperate and exchange data on a regular basis with Member States and the Union industry.

2. Upon a duly justified request by the Union industry concerned, the Commission may extend the scope of the monitoring to other sectors, if any, than those mentioned in the Annex.

3. The Commission shall present an annual monitoring report to the European Parliament and to the Council on statistics on imports of sensitive products, and those sectors, if any, to which monitoring has been extended.

Article 5

Initiation of an investigation

1. An investigation shall be initiated by the Commission upon request by a Member State, by any legal person or any association not having legal personality acting on behalf of the Union industry, or on the Commission's own initiative, where there is sufficient *prima facie* evidence, as determined on the basis of factors referred to in Article 6(5).

2. The request shall contain the following information:

- (a) (a) the rate and amount of the increase in imports of the product concerned in absolute and relative terms;
- (b) (b) the share of the domestic market taken by the increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment regarding the Union industry.

3. The product subject to an investigation may cover one or several tariff lines or a sub-segment thereof depending on the specific market circumstances, or any product segmentation commonly applied in the Union industry.

4. An investigation may also be initiated where there is a surge of imports concentrated in one or several Member States, provided that there is sufficient *prima facie* evidence, as determined on the basis of factors referred to in Article 6(5).

5. The Commission shall inform all Member States when it receives a request to initiate an investigation or when it considers initiation of an investigation to be appropriate on its own initiative pursuant to paragraph 1.

6. Where it is apparent that there is sufficient *prima facie* evidence to justify the initiation of an investigation, the Commission shall initiate the investigation and shall publish a notice thereof in the Official Journal of the European Union. The investigation shall be initiated within one month of receipt by the Commission of the request pursuant to paragraph 1.

7. The notice on initiation of investigation shall contain the following elements:

- (a) (a) a summary of the information received and request that all relevant information be communicated to the Commission;
- (b) (b) determination of the period within which interested parties may make known their views in writing and submit information to the Commission, if such views and information are to be taken into account during the investigation;
- (c) (c) determination of the period within which interested parties may apply to be heard by the Commission in accordance with Article 6(9).

Article 6

Conduct of investigation

1. Following the publication of the notice referred to in Article 5(7), the Commission shall initiate an investigation. The period as set out in paragraph 3 of this Article shall start on the day the decision to initiate the investigation is published in the Official Journal of the European Union.

2. The Commission may request Member States to supply information and Member States shall take all necessary steps in order to give effect to any such request. If that information is of general interest and is not confidential within the meaning of Article 12, it shall be added to the non-confidential file as provided for in paragraph 8 of this Article.

3. The investigation shall, where possible, be concluded within six months of its initiation. That time limit may be extended by a further period of three months in exceptional

circumstances such as the involvement of an unusually high number of interested parties or complex market situations. The Commission shall notify all interested parties of any such extension and explain the reasons therefor.

4. The Commission shall seek all information it considers necessary to determine the conditions set out in Article 3(1), and, shall, where appropriate, verify that information.

5. The Commission shall evaluate all relevant factors of an objective and quantifiable nature affecting the situation of the Union industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment. This list is not exhaustive and other relevant factors may also be taken into consideration by the Commission for its determination of the existence of serious injury or threat of serious injury, such as stocks, prices, return of capital employed, cash flow, and other factors which are causing or may have caused serious injury, or threaten to cause serious injury to the Union industry.

6. Interested parties who have submitted information pursuant to point (b) of Article 5(7) and representatives of the country concerned may, upon written request, inspect all information made available to the Commission in connection with the investigation, other than internal documents prepared by the Union authorities or those of the Member States, provided that that information is relevant to the presentation of their case and not confidential within the meaning of Article 12 and that it is used by the Commission in the investigation. Interested parties may communicate their views on the information made available to the Commission. Where there is sufficient prima facie evidence in support of those views, the Commission shall take them into consideration.

7. The Commission shall ensure that all data and statistics which are used for the investigation are representative, available, comprehensible, transparent and verifiable.

8. The Commission shall, as soon as the necessary technical framework is in place, ensure password-protected online access to the non-confidential file (the online platform), which it shall manage and through which all information which is relevant and is not confidential within the meaning of Article 12 shall be disseminated. Interested parties, Member States and the European Parliament shall be granted access to that platform.

9. The Commission shall hear interested parties, in particular where they have made a written application within the period laid down in the notice published in the Official Journal of the European Union, demonstrating that they are likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally. The Commission shall hear interested parties on further occasions if there are special reasons therefor.

10. Where information is not supplied within the time limits set by the Commission, or where the investigation is significantly impeded, the Commission may reach a decision on the basis of the available facts. Where the Commission finds that any interested party or any third party has supplied it with false or misleading information, it shall disregard that information and may make use of the facts available.

11. The Commission shall notify the country concerned in writing of the initiation of an investigation.

Article 7

Prior surveillance measures

1. The Commission may adopt prior surveillance measures with regard to imports from a country concerned where the trend in imports of a product is such that it could lead to one of the situations referred to in Articles 3 and 5. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 17(2).
2. Prior surveillance measures shall have a limited period of validity. Unless otherwise provided, they shall cease to be valid at the end of the second six-month period following the first six months after their introduction.

Article 8

Imposition of provisional safeguard measures

1. The Commission shall adopt provisional safeguard measures in critical circumstances where a delay could cause damage which would be difficult to repair, pursuant to a preliminary determination by the Commission on the basis of the factors referred to in Article 6(5) that there is sufficient *prima facie* evidence that a product originating in the country concerned is imported:
 - (a) in such increased quantities, in absolute terms or relative to Union production, and under such conditions as,
 - (b) to cause or threaten to cause serious injury to the Union industry; and,
 - (c) the increase of imports is the result of the reduction or the elimination of the customs duties on that product.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 17(2).

2. On duly justified imperative grounds of urgency, where a Member State requests immediate intervention by the Commission and where the conditions set out in paragraph 1 are met, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 17(4). The Commission shall take a decision within five working days of receiving the request.
3. Provisional safeguard measures shall not apply for more than 200 calendar days.
4. Where the provisional safeguard measures are repealed because the investigation reveals that the conditions set out in Article 3(1) are not met, any customs duty collected as a result of those provisional safeguard measures shall be refunded automatically.
5. Provisional safeguard measures shall apply to every product which is put into free circulation after the date of entry into force of those measures. However, such measures shall not prevent the release into free circulation of products already on their way to the Union where the destination of such products cannot be changed.

Article 9

Termination of investigations and proceedings without measures

1. Where the investigation leads to the conclusion that the conditions set out in Article 3(1) are not met, the Commission shall publish a decision terminating the investigation and proceeding in accordance with the examination procedure referred to in Article 17(3).
2. The Commission shall make public, with due regard to the protection of confidential information within the meaning of Article 12, a report setting out its findings and reasoned conclusions reached on all pertinent issues of fact and law.

Article 10

Imposition of definitive safeguard measures

1. Where the investigation leads to the conclusion that the conditions set out in Article 3(1) are met, the Commission may adopt definitive safeguard measures in accordance with the examination procedure referred to in Article 17(3).
2. The Commission shall make public, with due regard to the protection of confidential information within the meaning of Article 12, a report containing a summary of the material facts and considerations relevant to the determination.

Article 11

Duration and review of safeguard measures

1. A safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury to Union industry and to facilitate adjustment. That period shall not exceed two years, unless it is extended under paragraph 3.
2. Pending the outcome of the review under paragraph 3, a safeguard measure shall remain in force.
3. The initial period of duration of a safeguard measure as referred to in paragraph 1, may be extended by up to two years provided that the safeguard measure continues to be necessary to prevent or remedy serious injury to Union industry and that there is evidence that the Union industry is adjusting.
4. Any extension pursuant to paragraph 3 shall be preceded by an investigation upon a request by a Member State, by any legal person or any association not having legal personality acting on behalf of the Union industry, or on the Commission's own initiative if there is sufficient prima facie evidence that the conditions laid down in paragraph 3 are met, on the basis of factors referred to in Article 6(5).
5. The initiation of an investigation referred to in paragraph 4 shall be published in accordance with Article 5(6) and (7). The investigation shall be carried out in accordance with Article 6.
6. Any decision regarding an extension pursuant to paragraph 3 shall be made in accordance with Articles 9 and 10.
7. The total duration of a safeguard measure shall not exceed four years, including the period of application of any provisional safeguard measure, the initial period of application and prorogation thereof.

Article 12

Confidentiality

1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.
2. Neither information of a confidential nature nor any information provided on a confidential basis received pursuant to this Regulation shall be disclosed without the express consent of the supplier of such information.
3. Each request for confidentiality shall state the reasons why the information is confidential. Interested parties providing confidential information shall be required to provide non-

confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not capable of being summarised. In such exceptional circumstances, a statement of the reasons why such summarisation is not possible shall be provided. However, if the supplier of the information requests that the information is not made public or disclosed, in full or in summary form, and if that request is unjustified, the information concerned may be disregarded.

4. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

5. Paragraphs 1 to 4 shall not preclude reference by the Union authorities to general information and in particular to reasons on which decisions taken pursuant to this Regulation are based. Those authorities shall, however, take into account the legitimate interest of natural and legal persons concerned that their business secrets should not be divulged.

Article 13

Report

1. The Commission shall submit an annual report to the European Parliament and to the Council on the application, implementation and fulfilment of obligations of the Agreement concluded with each country concerned and of this Regulation.

2. The report shall, inter alia, include information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures and the termination of investigations and proceedings without measures.

3. The report shall set out a summary of the statistics and the evolution of trade with each country concerned.

4. The European Parliament may, within one month of submission of the Commission's report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation.

5. No later than three months after submitting its report to the European Parliament and to the Council, the Commission shall make it public.

Article 14

Other mechanisms and criteria for temporary withdrawal of tariff preferences or other preferential treatment

1. Where an Agreement provides for other mechanisms and criteria permitting temporary withdrawal of preferences in respect of certain products, the Commission shall, where the conditions laid down in the relevant Agreement are met, adopt implementing acts:

- (a) suspending the preferences for the product concerned;
- (b) re-instating the preferences where the conditions laid down in the relevant Agreement are met;
- (c) adjusting the suspension to conform with the conditions in the relevant Agreement;
or
- (d) taking any other action specified in the Agreement.

Those acts shall be adopted in accordance with the examination procedure referred to in Article 17(3).

2. On duly justified imperative grounds of urgency, where a delay in the imposition of provisional safeguard measures would cause damage which would be difficult to repair or to prevent a negative impact on the situation of the Union market, in particular as a result of an increase in imports, or as otherwise provided in the Agreement, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 17(4).

Article 15

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 16, in order to amend the Annex with a view to:

- (a) adding an Agreement to the Annex;
- (b) supplementing the Annex with special rules contained in an Agreement;
- (c) adding to the Annex any products identified as "sensitive" by an Agreement.

Article 16

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 15 shall be conferred on the Commission for a period of five years from [OP – please insert (date of entry into force of this Regulation)]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in paragraph 1 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to paragraph 1 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 17

Committee procedure

1. The Commission shall be assisted by the committee established by Article 4(1) of Council Regulation (EC) No 260/2009³. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a committee member so request.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

Article 18

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

³ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p.1).