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2025/0012(COD)**

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### **OUTCOME OF PROCEEDINGS**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/196 of the European Parliament and of the Council of 7 February 2018 on additional customs duties on imports of certain products originating in the United States of America  
- Letter to the Chair of the European Parliament Committee on International trade (INTA)

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Following the approval by the Permanent Representatives Committee at its meeting of 26 March 2025, delegations are informed that the Presidency has sent the letter in ANNEX to the Chair of the European Parliament Committee on International Trade (INTA).



SGS 25/01397

Brussels, 26 March 2025

Mr Bernd Lange  
Chair, European Parliament Committee on International Trade (INTA)  
European Parliament  
60, rue Wiertz / Wiertzstraat 60  
B-1047 Bruxelles / Brussel

**Subject:** Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/196 of the European Parliament and of the Council of 7 February 2018 on additional customs duties on imports of certain products originating in the United States of America (2025/0012 (COD))  
- First reading agreement

Dear Mr Lange,

I am pleased to inform you that the Permanent Representatives Committee agreed today to the above-mentioned proposal as set out in the Annex of this letter.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading in accordance with Article 294, paragraph 3 of the Treaty, in the form set out in Annex to this letter (subject to the revision by the lawyers-linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position. The act is then adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council, I also wish to thank you for the close cooperation which should enable us to reach an agreement on this dossier at first reading.

Yours faithfully,



Agnieszka BARTOL  
Chair of the  
Permanent Representatives Committee

Copy: Mr Maroš ŠEFČOVIČ, Member of the European Commission

2025/0012 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) 2018/196 of the European Parliament and of the Council of 7 February 2018 on additional customs duties on imports of certain products originating in the United States of America**

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) On 27 January 2003, the Dispute Settlement Body ('DSB') of the World Trade Organization ('WTO') adopted the Appellate Body report<sup>1</sup> and the Panel report<sup>2</sup>, as upheld by the Appellate Body report, finding that the Continued Dumping and Subsidy Offset Act ('CDSOA') was incompatible with the United States' obligations under the WTO agreements.

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<sup>1</sup> United States — Offset Act (Byrd Amendment), Appellate Body report (WT/DS217/AB/R, WT/DS234/AB/R, 16 January 2003).

<sup>2</sup> United States — Offset Act (Byrd Amendment), Panel report (WT/DS217/R, WT/DS234/R, 16 September 2002).

- (2) Since the United States failed to bring its legislation into conformity with the WTO agreements, the European Community ('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<sup>3</sup>. The United States objected to the level of suspension of tariff concessions and related obligations, and the matter was referred to arbitration.
- (3) 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. The Arbitrator concluded that the suspension by the Community of concessions or other obligations, in the form of the imposition of an additional import duty above bound custom duties, on a list of products originating in the United States covering, on a yearly basis, a total value of trade not exceeding the amount of nullification or impairment would be consistent with WTO rules. 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.
- (4) 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<sup>4</sup> 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.

<sup>3</sup> United States — Offset Act (Byrd Amendment), Recourse by the European Communities to Article 22(2) of the DSU (WT/DS217/22, 16 January 2004).

<sup>4</sup> Regulation (EU) 2018/196 of the European Parliament and of the Council of 7 February 2018 on additional customs duties on imports of certain products originating in the United States of America (codification) (OJ L 44, 16.2.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/196/oj>).

- (5) 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 %. As collecting this additional import duty would have no trade effect but result in a disproportionate administrative cost for the Union, the rate of additional import duty was set at 0 % by Commission Delegated Regulation (EU) 2024/1239<sup>5</sup>, which amended Regulation (EU) 2018/196 accordingly.
- (6) Given that the CDSOA was effectively repealed on 1 October 2007, it is expected that the level of nullification or impairment and, consequently, of suspension will stay at this significantly decreased and economically negligible level.
- (7) To ensure efficient processes and avoid disproportionate administrative costs for the Union, Regulation (EU) 2018/196 should be amended by including a de minimis -threshold below which ~~no~~*the* additional import duty should be ~~imposed~~*suspended, and the Commission should not be required to adjust the level of suspension.*
- (8) The de minimis threshold should be set at USD 30 000 of disbursements under the CDSOA relating to anti-dumping and countervailing duties paid on imports from the Union for the most recent year for which data are available at that time, as published by the United States' authorities (U.S. Customs and Border Protection). Below such threshold, the additional import duty, as resulting from the formula mandated by the WTO authorisation, would have no trade impact and would thus be economically negligible. It would also cause disproportionate administrative costs for the Union.

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<sup>5</sup> Commission Delegated Regulation (EU) 2024/1239 of 22 February 2024 amending Regulation (EU) 2018/196 of the European Parliament and of the Council on additional customs duties on imports of certain products originating in the United States of America (OJ L, 2024/1239, 29.4.2024, ELI: [http://data.europa.eu/eli/reg\\_del/2024/1239/oj](http://data.europa.eu/eli/reg_del/2024/1239/oj)).

- (9) Additionally, Article 3(3) of Regulation (EU) 2018/196 should be amended and aligned to the standard clauses contained in the Interinstitutional Agreement on Better Law-Making<sup>6</sup>.
- (9a) *In order to avoid disproportionate administrative effort and allow for the prompt application of the envisaged derogation by the Commission, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union.*
- (10) Regulation (EU) 2018/196 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Regulation (EU) 2018/196**

Article 3 of the Regulation (EU) 2018/196 is amended as follows:

- (1) The following paragraph is added:

‘4. ~~Notwithstanding~~ **By way of derogation from** paragraph 1 of this Article, ~~the application of the additional duty shall be suspended if~~ **where** the amount of disbursements under the CDSOA relating to anti-dumping and countervailing duties paid on imports from the Union for the most recent year for which data are available at that time, as published by the United States' authorities, is USD 30 000 or less, **the Commission shall not adjust the level of suspension and the application of the additional import duty referred to in Article 2 shall be suspended. The Commission shall publish a notice in the Official Journal of the European Union to that effect.**’

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<sup>6</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1, ELI: [http://data.europa.eu/eli/agree\\_interinsttit/2016/512/oj](http://data.europa.eu/eli/agree_interinsttit/2016/512/oj)).

(2) The first sentence of paragraph 3 is replaced by the following:

‘The Commission shall adopt delegated acts in accordance with Article 4 to make the adjustments and amendments referred to in paragraphs 1 and 2 of this Article.’

*Article 2*

**Entry into force**

This Regulation shall enter into force on the 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*