Commission Implementing Regulation (EU) 2018/886 of 20 June 2018 on certain commercial policy measures concerning certain products originating in the United States of America and amending Implementing Regulation (EU) 2018/724

COMMISSION IMPLEMENTING REGULATION (EU) 2018/886

of 20 June 2018

on certain commercial policy measures concerning certain products originating in the United States of America and amending Implementing Regulation (EU) 2018/724

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules[(1)], and in particular Article 4(1) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2018/724[(2)] mandated the Commission to give written notice, no later than 18 May 2018, to the World Trade Organization ('WTO') Council for Trade in Goods that, absent disapproval by the Council for Trade in Goods, the Union suspends the application to the trade of the United States of America ('United States') of import duty concessions under the GATT 1994 in respect of the products listed in Annex I and Annex II to that Regulation, so as to allow for an application of additional customs duties on the importation of these products originating in the United States.

(2) On 18 May 2018 the Commission gave the above written notice and the WTO Council for Trade in Goods did not disapprove within 30 days. The Union thereby suspended, in the WTO, the application of import duty concessions to the trade with the United States under GATT 1994 in respect of these products.

(3) On 8 March 2018 the United States adopted safeguard measures in the form of a tariff increase on imports of certain steel and aluminium products, effective from 23 March 2018 and with an unlimited duration. After two deferrals of the effective date of the tariff increase with respect to the European Union, the tariff increase became effective with respect to the European Union on 1 June 2018, with an unlimited duration.

(4) Consequently, having regard to Article 2 of Implementing Regulation (EU) 2018/724, the Commission should impose additional customs duties on the products listed in Annex I and Annex II, as set out in recitals 6 and 12 to 15 of that Regulation, and having regard to the modalities set out in recitals 7 and 16 to 19 of that Regulation, and reflecting the timing requirements as set out in recital 5 of that Regulation, to the effect that:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/886. (See end of Document for details)*

(a) the additional ad valorem duties of a rate of 10 % and 25 % on imports of the products listed in Annex I, should be applied from the date of entry into force of this Regulation and until the United States ceases to apply its safeguard measures to products from the Union;

(b) the additional ad valorem duties of a rate of 10 %, 25 %, 35 % and 50 % on imports of the products listed in Annex II, should be applied from 1 June 2021 or upon the adoption by, or notification to, the WTO Dispute Settlement Body of a ruling that the United States' safeguard measures are inconsistent with the relevant provisions of the WTO Agreement, if that is earlier, until the United States ceases to apply its safeguard measures to the Union.

(5) Due to a clerical error, Implementing Regulation (EU) 2018/724 should be amended. The clerical error concerns the maximum additional duty for CN 9504 40 00 in Annex I, which should be 10 % instead of 25 %. Recital 12, Article 2(a) and Annex I of that Regulation should be amended accordingly. The products and level of additional duties listed in Annex I and Annex II are identical in Implementing Regulation (EU) 2018/724, as amended, and this Regulation.

(6) This Regulation is without prejudice to the question of the consistency of the United States' safeguard measures with the relevant provisions of the WTO Agreement.

(7) The Commission may amend this Regulation, should it deem that appropriate, to account for any modification of or amendment to the United States' safeguard measures, including through product or company exclusion.

(8) Article 4 of Implementing Regulation (EU) 2018/724 provides that products listed in the Annexes to that Regulation for which an import licence with an exemption from or a reduction of duty has been issued prior to the date of entry into force of that Regulation shall not be subject to additional duty. That Regulation also provides that products listed in the Annexes to that Regulation for which the importers can prove that they have been exported from the United States to the Union prior to the date on which an additional duty is applied with respect to that product shall not be subject to the additional duty.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Trade Barriers Committee, established by Regulation (EU) 2015/1843 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

The Union shall apply additional customs duties on imports into the Union of the products listed in Annex I and Annex II to this Regulation and originating in the United States of America (‘United States’).

Article 2

The application of additional customs duties on these products shall be as follows:

(a) at the first stage, additional ad valorem duty of a rate of 10 % and 25 % shall be applied on imports of products listed in Annex I, as specified therein, from the date of entry into force of this Regulation;

(b) at the second stage, further additional ad valorem duty of a rate of 10 %, 25 %, 35 % and 50 % shall be applied on imports of products listed in Annex II as specified therein:

— from 1 June 2021, or

— from the fifth day following the date of the adoption by, or notification to, the WTO Dispute Settlement Body of a ruling that the United States' safeguard measures are inconsistent with the relevant provisions of the WTO Agreement, if that is earlier. In the latter event, the Commission shall publish in the *Official Journal of the European Union* a notice indicating the date on which such ruling is adopted or notified.

Article 3

Implementing Regulation (EU) 2018/724 is amended as follows:

(1) recital 12 is replaced by the following:

> Reflecting the timing requirements described in recital 5, the additional customs duties should apply, if necessary or to the extent necessary, in two stages. At the first stage, ad valorem duties of a maximum rate of 10 % and 25 % on imports of the products listed in Annex I, may be applied immediately and until the United States ceases to apply its safeguard measures to products from the Union.;

(2) in Article 2, paragraph (a) is replaced by the following:

> At the first stage, additional ad valorem duty of a maximum rate of 10 % and 25 % shall be applied on imports of products listed in Annex I from 20 June 2018;

(3) in Annex I, the additional duty for CN 9504 40 00 is amended as follows:

‘25 %’ is replaced by ‘10 %’.

Article 4

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, 20 June 2018.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/886. (See end of Document for details)*

ANNEX I

Products subject to additional duties at the first stage

CN 2018[a]	Additional duty
0710 40 00	25 %
0711 90 30	25 %
0713 33 90	25 %
1005 90 00	25 %
1006 30 21	25 %
1006 30 23	25 %
1006 30 25	25 %
1006 30 27	25 %
1006 30 42	25 %
1006 30 44	25 %
1006 30 46	25 %
1006 30 48	25 %
1006 30 61	25 %
1006 30 63	25 %
1006 30 65	25 %
1006 30 67	25 %
1006 30 92	25 %
1006 30 94	25 %
1006 30 96	25 %
1006 30 98	25 %
1006 40 00	25 %
1904 10 30	25 %
1904 90 10	25 %
2001 90 30	25 %
2004 90 10	25 %
2005 80 00	25 %
2008 11 10	25 %

a The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1) and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation, including most recently Commission Implementing Regulation (EU) 2017/1925 of 12 October 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 31.10.2017, p. 1).

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2009 12 00	25 %
2009 19 11	25 %
2009 19 19	25 %
2009 19 91	25 %
2009 19 98	25 %
2009 81 11	25 %
2009 81 19	25 %
2009 81 31	25 %
2009 81 59	25 %
2009 81 95	25 %
2009 81 99	25 %
2208 30 11	25 %
2208 30 19	25 %
2208 30 82	25 %
2208 30 88	25 %
2402 10 00	25 %
2402 20 10	25 %
2402 20 90	25 %
2402 90 00	25 %
2403 11 00	25 %
2403 19 10	25 %
2403 19 90	25 %
2403 91 00	25 %
2403 99 10	25 %
2403 99 90	25 %
3304 20 00	25 %
3304 30 00	25 %
3304 91 00	25 %
6109 10 00	25 %
6109 90 20	25 %
6109 90 90	25 %

a The nomenclature codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1) and as set out in Annex I thereto, which are valid at the time of publication of this Regulation and mutatis mutandis as amended by subsequent legislation, including most recently Commission Implementing Regulation (EU) 2017/1925 of 12 October 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 31.10.2017, p. 1).