Council Regulation (EC) No 728/2006 of 15 May 2006 suspending and conditionally repealing Regulation (EC) No 2193/2003 establishing additional customs duties on imports of certain products originating in the United States of America

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 7 May 2003, the Community was authorised by the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) to impose countermeasures up to a level of USD 4 043 million in the form of additional 100 % *ad valorem* duties on certain products originating in the United States of America. Consequently, on 8 December 2003 the Community adopted Council Regulation (EC) No 2193/2003 establishing additional customs duties on imports of certain products originating in the United States of America[(1)].

(2) The Community, pending the outcome of further WTO litigation regarding the WTO compatibility of the transition and grandfathering provisions of the FSC Repeal and Extraterritorial Income Act of 2000 (FSC-ETI Act) and of the American Jobs Creation Act of 2004 (JOBS Act), amended and suspended the application of Regulation (EC) No 2193/2003 by the adoption of Regulation (EC) No 171/2005.

(3) Regulation (EC) No 171/2005 stipulates that reintroduction of additional duties would only take effect again on 1 January 2006 or 60 days after the DSB confirms, whichever date is later, the incompatibility of certain aspects of the abovementioned Act with WTO law.

(4) On 14 March 2006 the DSB confirmed the WTO incompatibility of the challenged US measures following a panel and Appellate Body ruling on the matter. The Commission on 3 May 2006 published a notice informing that an additional duty of 14 % *ad valorem* would become applicable on 16 May 2006.

(5) The US Congress has now adopted legislation repealing the grandfathering provisions of the FSC-ETI Act and of the JOBS Act for the next taxable years and therefore countermeasures imposed under Council Regulation (EC) No 2193/2003, as amended by Council Regulation (EC) No 171/2005, have achieved their objective to a sufficient extent and reintroduction of countermeasures would be unnecessarily disruptive.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 728/2006. (See end of Document for details)*

(6) Since the President of the United States has to sign the Bill into law, the reintroduction of sanctions should continue to be suspended until such signature has taken place, and the repeal of countermeasures imposed under Regulation (EC) No 2193/2003, as amended by Council Regulation (EC) No 171/2005, should only become effective once this signature has taken place,

HAS ADOPTED THIS REGULATION:

Article 1

1 The suspension of the application of additional duties provided for in Articles 1 and 2 of Regulation (EC) 171/2005 is hereby extended until 29 May 2006.

2 In the event that the President of the United States signs the Bill adopted by the Congress of the United States repealing the grandfathering provisions of the FSC-ETI Act and of the JOBS Act on or before 26 May 2006 Regulation (EC) No 2193/2003 shall be repealed with effect from 29 May 2006.

3 After the abovementioned signature has taken place, the Commission shall promptly publish a notice in the *Official Journal of the European Union* announcing that such signature has taken place and that Council Regulation (EC) No 2193/2003 is repealed with effect from 29 May 2006.

4 In the event that no such signature takes place by 26 May 2006, the Commission shall promptly publish a notice in the *Official Journal of the European Union* announcing that no such signature has taken place and that countermeasures as provided for in Regulation (EC) No 2193/2003 become applicable again with effect from 30 May 2006.

Article 2

This Regulation shall enter into force on the day 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, 15 May 2006.

For the Council

The President

U. PLASSNIK