COUNCIL REGULATION (EC) No 1031/2002

of 13 June 2002

establishing additional customs duties on imports of certain products originating in the United States of America

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) The United States of America has imposed a safeguard measure in the form of tariff increases or tariff quotas on imports of steel products from, *inter alia*, the European Community as from 20 March 2002.

(2) This measure is causing considerable injury to the Community producers concerned and disturbs the balance of concessions and obligations resulting from the WTO Agreement; the measure will significantly limit Community exports of the steel products concerned to the United States of America, affecting Community exports worth at least EUR 2 407 million per year.

(3) The consultations which were held between the United States of America and the Community as envisaged in the WTO Agreement did not reach any satisfactory solution.

(4) The WTO Agreement gives any affected exporting Member the right to suspend the application of substantially equivalent concessions or other obligations, provided the WTO Council for Trade in Goods does not disapprove.

(5) The imposition of additional customs duties of 100 %, 30 %, 15 %, 13 % and 8 % on selected products originating in the United States of America imported each year into the Community represents the suspension of a substantially equivalent trade concession, in that the duties collected will not exceed the amount of duties to be collected on Community exports of the products covered by the United States of America safeguard measure, namely EUR 626 million per year.

(6) The suspension of substantially equivalent concessions should be applied by priority with respect to the steel sector, and to other sectors where appropriate. In particular, the manufactured products originating in the United States of America which have been selected are those on which the Community is not substantially dependent for its supply, but on which the imposition of additional customs duties will have an impact substantially equivalent to the impact on Community exports of the safeguard measure imposed by the United States of America.

(7) For some products designated as 'certain flat steel products' the safeguard measure adopted by the United States of America has not been taken as a result of an absolute increase in imports.

(8) As allowed by the WTO Agreement, a part of the Community's concessions corresponding to the safeguard measure that was not taken as a result of an absolute increase of imports and representing an amount of applicable duties of EUR 379 million may be subject to additional duties as from 18 June 2002.

(9) However, the primary objective of the Community in the short term remains to reach an agreement with the United States of America on both compensation and product exclusions from the safeguard action. The Council shall therefore decide on the application of additional duties in the light of decisions by the United States of America on economically meaningful product exclusions and on the presentation of an acceptable offer on trade compensation.

(10) This Regulation is without prejudice to the question of the compatibility of the safeguard measure applied by the United States of America with the WTO Agreement. In any event, the additional duty should apply in full from 20 March 2005 until the safeguard measure imposed by the United States of America is lifted. It should however apply immediately after a decision by the WTO Dispute Settlement Body that the safeguard measure imposed by the United States of America is incompatible with the WTO Agreement.

(11) Products for which an import licence with an exemption from, or a reduction of, duty was issued prior to the date of entry into force of this Regulation should not be subject to these additional customs duties.

(12) Products for which it can be proved that they have been exported from the United States of America to the Community prior to the date of application of the additional customs duties should not be subject to these additional customs duties.

(13) Products affected by the suspension of concessions should be placed under the customs procedure 'processing under customs control' only pursuant to an examination in the Committee of the Customs Code.

(14) The Community provided the Council for Trade in Goods with written notice of the suspension on 14 May 2002. The Council for Trade in Goods has not disagreed with such suspension,

HAS ADOPTED THIS REGULATION:

Article 1

The tariff concessions granted by the Community to the United States of America in respect of the products listed in Annex I and II are hereby suspended from 18 June 2002.

Article 2

1. The customs duties applicable to the products originating in the United States of America listed in Annex I and II shall be increased by an additional *ad valorem* duty of 100 %, 30 %, 15 %, 13 % or 8 %, as indicated in the Annexes.

2. The application of the additional duties listed in Annex I shall be decided on in accordance with the procedure and the modalities set out in Article 3(2).

3. The additional duties listed in Annex II shall be applied in accordance with Article 4.

Article 3

1. Before 19 July 2002, the Commission shall present a report to the Council on the state of discussions with the United States of America, in particular on the issue of product exclusions and on trade compensation, together with any necessary proposal for a Council decision.

2. The Council, acting in each case by qualified majority and on a proposal from the Commission, shall decide on the application of the additional duties listed in Annex I, including on the date of application and definitive content of that Annex:

(a) not later than 12 October 2002, if the United States of America has decided before 19 July 2002 on economically meaningful product exclusions and has started its domestic process to present an acceptable offer on trade compensation;

(b) not later than 1 August 2002, if the criteria under (a) are not fulfilled.

3. The additional duties listed in Annex I shall apply until the additional duties in Annex II apply.

Article 4

The additional duties listed in Annex II shall apply:

(a) from 20 March 2005, or

(b) from the fifth day following the date of a decision by the WTO Dispute Settlement Body that the safeguard measure imposed by the United States of America is incompatible with the WTO Agreement, if that is earlier. In this event, the Commission shall publish in the *Official Journal of the European Communities* a notice indicating the date of the decision of the WTO Dispute Settlement Body.

Article 5

The Council, acting by qualified majority on a proposal from the Commission, shall decide on the repeal of this Regulation once the safeguard measure of the United States of America is lifted.

Article 6

1. Products listed in Annex I for which an import licence with an exemption from, or a reduction of, duty was issued before the date of entry into force of this Regulation shall not be subject to the additional duty laid down in Annex I.

2. Products listed in Annex I for which it can be proved that they are already on their way to the Community on the date of application of that Annex and whose destination cannot be changed, shall not be subject to the additional duty laid down therein.

Products listed in Annex II but not in Annex I for which it can be proved that they are already on their way to the Community on the date of application of Annex II and whose destination cannot be changed, shall not be subject to the additional duty laid down in Annex II.

3. Products listed in Annexes I and II may be placed under the customs procedure 'processing under customs control' in accordance with Article 551(1), first subparagraph, of the Regulation (EEC) No 2454/93 [1] only where the examination of the economic conditions has taken place in the Committee of the Customs Code unless the products and operations are mentioned in Annex 76, Part A, of that Regulation.

Article 7

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Luxembourg, 13 June 2002.

For the Council

The President

M. RAJOY BREY

[1] Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1). Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

ANNEX I

The products covered by this Annex are determined by the product description of the Combined Nomenclature [1] for the CN codes listed below. The product descriptions in this Annex are only for information.

Description and CN codes	*Additional duty*
Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared falling under CN code:	
0712 20 00	100 %
Apples, pears and quinces, fresh falling under CN code:	
0808 10 90	100 %
Rice falling under CN codes:	
1006 30 98	100 %
1006 40 00	100 %
Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter falling under CN codes:	
2009 11 99	100 %
2009 12 00	100 %
2009 19 98	100 %
T-shirts, singlets and other vests, knitted or crocheted falling under CN codes:	
6109 10 00	100 %
6109 90 10	100 %
6109 90 30	100 %
6109 90 90	100 %
Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear) falling under CN codes:	
6203 42 90	100 %
6203 43 11	100 %
6203 43 19	100 %
Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear) falling under CN code:	
6204 62 90	100 %
Men's or boys' shirts falling under CN code:	
6205 30 00	100 %
Blankets and travelling rugs falling under CN code:	
6301 30 10	100 %
Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated falling under CN code:	
7210 12 11	100 %

[1] Annex I to 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). Regulation as last amended by Commission Regulation (EC) No 796/2002 (OJ L 128, 15.5.2002, p. 8).

Description and CN codes	*Additional duty*
Flat-rolled products of stainless steel, of a width of less than 600 mm falling under CN codes:	
7220 20 31	100 %
7220 90 11	100 %
7220 90 39	100 %
7220 90 90	100 %
Other bars and rods of stainless steel; angles, shapes and sections of stainless steel falling under CN codes:	
7222 20 81	100 %
7222 20 89	100 %
Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel falling under CN code:	
7308 30 00	100 %
Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment falling under CN code:	
7310 29 90	100 %
Other cast articles of iron or steel falling under CN code:	
7325 99 90	100 %
Other articles of iron or steel falling under CN code:	
7326 20 90	100 %
Printing machinery used for printing by means of the printing type, blocks, plates, cylinders and other printing components of heading 8442; ink-jet printing machines, other than those of heading 8471; machines for uses ancillary to printing falling under CN codes:	
8443 11 00	100 %
8443 19 90	100 %
Spectacles, goggles and the like, corrective, protective or other falling under CN codes:	
9004 10 91	100 %
9004 10 99	100 %
Articles for funfair, table or parlour games, including pintables, billiards, special tables for casino games and automatic bowling alley equipment falling under CN code:	
9504 10 00	100 %

ANNEX II

The products covered by this Annex are determined by the product description of the Combined Nomenclature for the CN codes listed below. The product descriptions in this Annex are only for information.

Description and CN codes	*Additional duty*
Vegetables (uncooked or cooked by steaming or boiling in water), frozen falling under CN code:	
0710 40 00	13 %
Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared falling under CN codes:	
0712 20 00	15 %
0712 90 90	13 %
Dried leguminous vegetables, shelled, whether or not skinned or split falling under CN codes:	
0713 33 90	13 %
0713 40 00	13 %
Other nuts, fresh or dried, whether or not shelled or peeled falling under CN code:	
0802 32 00	15 %
Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried falling under CN code:	
0804 50 00	15 %
Citrus fruit, fresh or dried falling under CN code:	
0805 40 00	15 %
Grapes, fresh or dried falling under CN code:	
0806 10 10	15 %
Apples, pears and quinces, fresh falling under CN codes:	
0808 10 90	15 %
0808 20 50	15 %
Apricots, cherries, peaches (including nectarines), plums and sloes, fresh falling under CN code:	
0809 20 95	15 %
Rice falling under CN codes:	
1006 20 98	8 %
1006 30 98	8 %
1006 40 00	8 %
Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006 falling under CN code:	
2005 80 00	15 %