II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2023/858

of 23 February 2023

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

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 3(3) thereof,

Whereas:

(1) As a result of the United States' failure to bring the Continued Dumping and Subsidy Offset Act ('CDSOA') in compliance with its obligations under the World Trade Organization ('WTO') agreements, pursuant to Regulation (EU) 2018/196 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. In 2022, the level of suspension was adjusted to 0,001 % *ad valorem* additional customs duty and Regulation (EU) 2018/196 was amended accordingly ([2]).

(2) The CDSOA disbursements for the most recent year for which data are available relate to the distribution of anti-dumping and countervailing duties collected during the Fiscal Year 2022 (1 October 2021 – 30 September 2022). On the basis of the data published by the United States' Customs and Border Protection, the level of nullification or impairment caused to the Union is calculated at USD 317 877,22.

(3) The level of nullification or impairment and consequently of suspension has increased. The level of suspension cannot be adjusted to the level of nullification or impairment by adding or removing products from the list in Annex I to Regulation (EU) 2018/196. As a consequence, in accordance with Article 3(1)(e) of that Regulation, the Commission should keep the list of products in Annex I unchanged and amend the rate of the additional duty in order to adjust the level of suspension to the level of nullification or impairment. The four products listed in Annex I to Regulation (EU) 2018/196 should therefore be maintained on the list and the rate of additional import duty should be amended and set at 0,164 %.

(4) The effect of a 0,164 % *ad valorem* additional import duty on imports from the United States of the products in Annex I to Regulation (EU) 2018/196 represents, over one year, a value of trade that does not exceed USD 317 877,22.

([1]) OJ L 44, 16.2.2018, p. 1.

([2]) Commission Delegated Regulation (EU) 2022/682 of 25 February 2022 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 126, 29.4.2022, p. 4).

(5) To make sure that there are no delays in the application of the amended rate of additional import duty, this Regulation should enter into force on the day of its publication.

(6) Regulation (EU) 2018/196 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EU) 2018/196 is replaced by the following, formatting the asterisk and the text linked to it in the manner of a footnote:

'*Article 2*

An *ad valorem* duty of 0,164 % additional to the customs duty applicable under Regulation (EU) No 952/2013 of the European Parliament and of the Council (*) shall be imposed on the products originating in the United States listed in Annex I to this Regulation.

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(*) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).'

Article 2

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

It shall apply from 1 May 2023.

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

Done at Brussels, 23 February 2023.

For the Commission
The President
Ursula VON DER LEYEN