COMMISSION IMPLEMENTING REGULATION (EU) 2021/2083

of 26 November 2021

suspending commercial policy measures concerning certain products originating in the United States of America imposed by Implementing Regulations (EU) 2018/886 and (EU) No 2020/502

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 and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (WTO) ([1]), and in particular Article 7(3) thereof,

Whereas:

(1) On 20 June 2018, the Commission adopted Implementing Regulation (EU) 2018/886 ([2]) on certain commercial policy measures concerning certain products originating in the United States of America that provides for the application of additional customs duties on imports into the Union of a number of products originating in the United States as follows:

(a) at the first stage, the additional ad valorem duties of a rate of 10 % and 25 % on imports of the products listed in Annex I to that Regulation, as specified therein, entered into force on 21 June 2018 and were set to apply until the United States ceases to apply its safeguard measures to products from the Union;

(b) at the second stage, further additional ad valorem duties of a rate of 10 %, 25 %, 35 % and 50 % on imports of the products listed in Annex II to that Regulation, as specified therein, would apply 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 Agreement establishing the World Trade Organization ('WTO Agreement'), if that is earlier, until the United States ceases to apply its safeguard measures to products from the Union.

(2) On 7 April 2020, the Commission adopted Implementing Regulation (EU) 2020/502 ([3]) that provides for the application of additional customs duties on imports into the Union of certain products originating in the United States, as follows:

(a) at the first stage, the additional ad valorem duties of a rate of 20 % and 7 % on imports of the products specified in Article 1(2), point (a), of that Regulation, entered into force on 8 May 2020 and were set to apply until the United States ceases to apply its safeguard measures to products from the Union;

([1]) OJ L 189, 27.6.2014, p. 50; amended by Regulation (EU) 2015/1843 of the European Parliament and of the Council of 6 October 2015 (OJ L 272, 16.10.2015, p. 1) and by Regulation (EU) 2021/167 of the European Parliament and the Council of 10 February 2021 (OJ L 49, 12.2.2021, p. 1).

([2]) 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 (OJ L 158, 21.6.2018, p. 5).

([3]) Commission Implementing Regulation (EU) 2020/502 of 6 April 2020 on certain commercial policy measures concerning certain products originating in the United States of America (OJ L 109, 7.4.2020, p. 10).

(b) at the second stage, a further additional ad valorem duty of 4,4 % on imports of the product specified in Article 1(2), point (b), of that Regulation, should be applied as from 8 February 2023 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' safeguard measures cease to apply.

(3) On 31 May 2021, following the EU-US Joint Statement published on 17 May 2021, the Commission adopted Implementing Regulation (EU) 2021/866 ([4]) on commercial policy measures concerning certain products originating in the United States of America, which suspended the application of the additional ad valorem duties on products listed in Annex II to Implementing Regulation (EU) 2018/886 until 30 November 2021.

(4) The Commission, on behalf of the Union, may amend Implementing Regulations (EU) 2018/886 ([5]) and (EU) 2020/502 ([6]), should it deem that appropriate, to account for any modification of or amendment to the United States' safeguard measures.

(5) On 31 October 2021, the United States announced the following amendments to their respective safeguard measures, to take effect from 1 January 2022:

(i) the United States '*will replace the existing 25 percent tariff on EU steel products under Section 232 with a tariff-rate quota (TRQ).*' The quota is based on historical import volumes of the respective steel products originating in the Union;

(ii) the United States '*will replace the existing 10 percent tariff on EU aluminum products under Section 232 with a tariff-rate quota (TRQ)*'. The quota is based on historical import volumes of the respective aluminium products originating in the Union;

(iii) the United States '*will extend the application of exclusions granted for and utilized in U.S. fiscal year 2021 for steel products imported from the EU for a period of two calendar years without the need to reapply, i.e., until 31 December 2023i*';

(iv) the United States will not apply Section 232 duties on imports from the Union of derivative articles of steel and of derivative articles of aluminium.

(6) Accordingly, the Union should suspend the application of the additional ad valorem duties imposed by Implementing Regulations (EU) 2018/886 and (EU) No 2020/502 for a period until 31 December 2023. The suspension should take place as follows:

(i) the additional ad valorem duties on products listed in Annex I to Implementing Regulation (EU) 2018/886 should be suspended from 1 January 2022;

(ii) the additional ad valorem duties on products listed in Annex II to Implementing Regulation (EU) 2018/886, which are suspended until 30 November 2021, should continue to be suspended from 1 December 2021;

(iii) the additional ad valorem duties on products listed in Article 1(2), points (a) and (b), of Implementing Regulation (EU) 2020/502 should be suspended from 1 January 2022;

(iv) the additional ad valorem duty on the product listed in Article 1(2), point (b), of Implementing Regulation (EU) 2020/502, which are due to apply from 8 February 2023, should be suspended from 8 February 2023.

(7) This suspension would allow the Union and the United States to significantly advance their ongoing cooperation, including with a view of eliminating the respective tariffs. However, it should be noted that the application of the exclusions from the US measures would last only until 31 December 2023. Such exclusions granted to importers in the United States when importing Union products significantly reduce the negative impact of the United States' safeguard measures. Therefore, a suspension until 31 December 2023 is considered as a sufficient and reasonable period and takes due account of the United States' announcements of 31 October 2021.

([4]) Commission Implementing Regulation (EU) 2021/866 of 28 May 2021 suspending commercial policy measures concerning certain products originating in the United States of America imposed by Implementing Regulation (EU) 2018/886 (OJ L 190, 31.5.2021, p. 94).

([5]) Recital 7 of Implementing Regulation (EU) 2018/886.

([6]) Recital 19 of Implementing Regulation (EU) 2020/502.

(8) Article 4(2)(c) of Regulation (EU) No 654/2014 requires the Union's action to be substantially equivalent to the level of concessions or other obligations affected by the safeguard measures of the third country.

(9) The Commission should keep the suspension under review in light of new developments, for instance developments that could deteriorate the situation for the Union exports that remain subject to the safeguard measures of the United States, including any impediments affecting the Union exports. The Commission may amend this Regulation to account for such developments, any modification of or amendment to the United States' safeguard measures.

(10) The suspension is without prejudice to the Union's position that the safeguard measures by the United States remain incompatible with the WTO Agreement.

(11) 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 ([7]),

HAS ADOPTED THIS REGULATION:

Article 1

The application of the additional ad valorem duties of a rate of 10 % and 25 % on imports of the products listed in Annex I to Implementing Regulation (EU) 2018/886 shall be suspended from 1 January 2022 until 31 December 2023.

The application of additional ad valorem duties of a rate of 10 %, 25 %, 35 % and 50 % on imports of the products listed in Annex II to Implementing Regulation (EU) 2018/886 shall be suspended from 1 December 2021 until 31 December 2023.

Without prejudice to any further suspension, modification, including earlier reinstatement, the duties provided for in Implementing Regulation (EU) 2018/886 shall apply with effect from and including 1 January 2024.

Article 2

The application of Implementing Regulation (EU) 2020/502 shall be suspended until 31 December 2023, as follows:

(a) the additional ad valorem duties of a rate of 20 % and 7 % on imports of the products specified in Article 1(2), point (a), of Implementing Regulation (EU) 2020/502 from 1 January 2022;

(b) the additional ad valorem duty of a rate of 4,4 % on imports of the product specified in Article 1(2), point (b), of Implementing Regulation (EU) 2020/502 from 8 February 2023.

Without prejudice to any further suspension, modification, including earlier reinstatement, the duties provided for in Implementing Regulation (EU) 2020/502 shall apply with effect from and including 1 January 2024.

Article 3

This Regulation shall enter into force on 30 November 2021.

([7]) Regulation (EU) 2015/1843 of the European Parliament and of the Council of 6 October 2015 laying down Union procedures in the field of the common commercial policy in order to ensure the exercise of the Union's rights under international trade rules, in particular those established under the auspices of the World Trade Organization(OJ L 272, 16.10.2015, p. 1).

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

Done at Brussels, 26 November 2021.

For the Commission
The President
Ursula VON DER LEYEN