

COMMISSION REGULATION (EU) No 305/2010**of 14 April 2010****replacing Annexes I and II to Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America**

THE EUROPEAN COMMISSION,

amended Annex I represents, over 1 year, a value of trade that does not exceed USD 95,83 million.

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

Having regard to Council Regulation (EC) No 673/2005 of 25 April 2005 establishing additional customs duties on imports of certain products originating in the United States of America ⁽¹⁾, and in particular Article 3 thereof,

Whereas:

(1) As a result of the United States' failure to bring the Continued Dumping and Subsidy Offset Act (CDSOA) in conformity with its obligations under the World Trade Organisation (WTO) agreements, Regulation (EC) No 673/2005 imposed a 15 % *ad valorem* additional customs duty on imports of certain products originating in the United States of America as from 1 May 2005. In conformity with the WTO authorisation to suspend the application of concessions in respect of certain products originating in the United States, the Commission shall adjust the level of suspension annually to the level of nullification or impairment caused by the CDSOA to the European Union at that time.

(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 2009 (1 October 2008-30 September 2009). On the basis of the data published by the United States' Customs and Border Protection, the level of nullification or impairment caused to the European Union is calculated at USD 95,83 million.

(3) Since the level of nullification or impairment and consequently of suspension has increased, the first 19 products of the list in Annex II to Regulation (EC) No 673/2005 should be added to the list set out in Annex I to Regulation (EC) No 673/2005.

(4) The effect of a 15 % *ad valorem* additional import duty on imports from the United States of the products in the

(5) Article 6(1) and 6(2) of Regulation (EC) No 673/2005 contain specific exemptions from the additional import duty. Since the applicability of those exemptions is dependent on certain conditions being met before the entry into force or on the date of application of Regulation (EC) No 673/2005, the exemptions cannot in practice apply for imports of the 19 products added by this Regulation to the list in Annex I. Specific provisions should therefore be adopted to make these exemptions effective for imports of those products.

(6) To avoid circumvention of the additional duty, this Regulation should enter into force on the day of its publication.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on trade retaliation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 673/2005 is replaced by Annex I to this Regulation.

Article 2

Annex II to Regulation (EC) No 673/2005 is replaced by Annex II to this Regulation.

Article 3

1. Products 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 provided they are classified under one of the following CN codes ⁽²⁾: 9406 00 38, 6101 30 10, 6102 30 10, 6201 12 10, 6201 13 10, 6102 30 90, 6201 92 00, 6101 30 90, 6202 93 00, 6202 11 00, 6201 13 90, 6201 93 00, 6201 12 90, 6204 42 00, 6104 43 00, 6204 49 10, 6204 44 00, 6204 43 00, 6203 42 31.

⁽²⁾ The description of products classified under these codes can be found in Annex I to Council Regulation (EEC) No 2658/87 (OJ L 256, 7.9.1987, p. 1), as amended by Regulation (EC) No 493/2005 (OJ L 82, 31.3.2005, p. 1).

⁽¹⁾ OJ L 110, 30.4.2005, p. 1.

2. Products for which it can be demonstrated that they are already en route to the European Union or in temporary storage or in a free zone or free warehouse or under a suspensive procedure within the meaning of Article 84(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾ on the date of application of this Regulation, and whose destination cannot be changed, shall not be subject to the additional duty provided they are classified under one of the following CN codes ⁽²⁾: 9406 00 38, 6101 30 10, 6102 30 10, 6201 12 10, 6201 13 10,

6102 30 90, 6201 92 00, 6101 30 90, 6202 93 00,
6202 11 00, 6201 13 90, 6201 93 00, 6201 12 90,
6204 42 00, 6104 43 00, 6204 49 10, 6204 44 00,
6204 43 00, 6203 42 31.

Article 4

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 2010.

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

Done at Brussels, 14 April 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ The description of products classified under these codes can be found in Annex I to Council Regulation (EEC) No 2658/87 (OJ L 256, 7.9.1987, p. 1), as amended by Regulation (EC) No 493/2005 (OJ L 82, 31.3.2005, p. 1).

ANNEX I

The products on which additional duties are to apply are identified by their eight-digit CN codes. The description of products classified under these codes can be found in 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 ⁽¹⁾ as amended by Regulation (EC) No 493/2005 ⁽²⁾.

4820 10 50
6204 63 11
6204 69 18
6204 63 90
6104 63 00
6203 43 11
6103 43 00
6204 63 18
6203 43 19
6204 69 90
6203 43 90
0710 40 00
9003 19 30
8705 10 00
9406 00 38
6101 30 10
6102 30 10
6201 12 10
6201 13 10
6102 30 90
6201 92 00
6101 30 90
6202 93 00
6202 11 00
6201 13 90
6201 93 00
6201 12 90
6204 42 00
6104 43 00
6204 49 10
6204 44 00
6204 43 00
6203 42 31.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 82, 31.3.2005, p. 1.

ANNEX II

The products in this Annex are identified by their eight-digit CN codes. The description of products classified under these codes can be found in Annex I to Council Regulation (EEC) No 2658/87, as amended by Regulation (EC) No 493/2005.

6204 62 31.
