




# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2014/0175(COD)</a>            Regulation</p>	Procedure completed
<p>Additional customs duties on imports of certain products originating in the USA. Codification</p> <p>Repealing Regulation (EC) No 673/2005</p> <p>Subject            6.20.03 Bilateral economic and trade agreements and relations            6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin</p> <p>Geographical area            United States</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">Legal Affairs</a>	 <a href="#">MAŠTÁLKA Jiří</a>	27/09/2017
Council of the European Union	Council configuration <a href="#">Agriculture and Fisheries</a>	Meeting <a href="#">3593</a>	Date 29/01/2018
European Commission	Commission DG <a href="#">Legal Service</a>	Commissioner BARROSO José Manuel	

Key events			
12/06/2014	Initial legislative proposal published	<a href="#">COM(2014)0343</a>	Summary
28/01/2015	Committee referral announced in Parliament, 1st reading/single reading		
17/07/2015	Initial legislative proposal published	<a href="#">COM(2015)0350</a>	Summary
28/01/2016	Vote in committee, 1st reading/single reading		
03/02/2016	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0022/2016</a>	
23/06/2016	Initial legislative proposal published	<a href="#">COM(2016)0408</a>	Summary
23/06/2016	Report referred back to committee		
04/07/2017	Legislative proposal published	<a href="#">COM(2017)0361</a>	Summary
10/10/2017	Vote in committee, 1st reading/single reading		
24/10/2017	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0331/2017</a>	Summary
12/12/2017	Results of vote in Parliament		

12/12/2017	Decision by Parliament, 1st reading/single reading	<a href="#">T8-0481/2017</a>	Summary
29/01/2018	Act adopted by Council after Parliament's 1st reading		
07/02/2018	Final act signed		
07/02/2018	End of procedure in Parliament		
16/02/2018	Final act published in Official Journal		

### Technical information

Procedure reference	2014/0175(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Regulation
	Repealing Regulation (EC) No 673/2005
Legal basis	Treaty on the Functioning of the EU TFEU 207-p2
Modified legal basis	Rules of Procedure EP 150
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/07055

### Documentation gateway

Initial legislative proposal		<a href="#">COM(2014)0343</a>	12/06/2014	EC	Summary
Initial legislative proposal		<a href="#">COM(2015)0350</a>	17/07/2015	EC	Summary
Committee draft report		<a href="#">PE539.747</a>	14/01/2016	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0022/2016</a>	03/02/2016	EP	
Initial legislative proposal		<a href="#">COM(2016)0408</a>	23/06/2016	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES4199/2016</a>	21/09/2016	ESC	
Legislative proposal		<a href="#">COM(2017)0361</a>	04/07/2017	EC	Summary
Committee draft report		<a href="#">PE610.878</a>	28/09/2017	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0331/2017</a>	24/10/2017	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T8-0481/2017</a>	12/12/2017	EP	Summary
Draft final act		<a href="#">00060/2017/LEX</a>	07/02/2018	CSL	
Follow-up document		<a href="#">COM(2019)0118</a>	05/03/2019	EC	Summary

### Additional information

European Commission	<a href="#">EUR-Lex</a>
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### Final act

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## 2014/0175(COD) - 12/06/2014 Initial legislative proposal

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**PURPOSE:** codification of 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.

**PROPOSED ACT:** Regulation of the European Parliament and the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

**CONTENT:** in the interests of clarity and legal transparency, the purpose of the present proposal is to proceed with the codification of 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.

Council Regulation (EC) No 673/2005 has been substantially amended several times.

It is recalled that on 1 April 1987 the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Edinburgh European Council, in December 1992, confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

The new Regulation will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

## 2014/0175(COD) - 17/07/2015 Initial legislative proposal

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**PURPOSE:** codification of 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.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** on 27 January 2003, the Dispute Settlement Body (?DSB?) of the World Trade Organisation (?WTO?) adopted the Appellate Body report and the Panel report finding that the Continued Dumping and Subsidy Offset Act (?CDSOA?) was incompatible with the United States' obligations under the WTO agreements.

Since the United States failed to bring its legislation into conformity with the relevant agreements, the Community requested authorisation from the DSB to suspend the application of its tariff concessions and related obligations under the General Agreement on Tariffs and Trade (?GATT?) 1994 to the United States. The United States objected to the level of suspension of tariff concessions and related obligations and the matter was referred to arbitration. On 26 November 2004, the DSB granted the authorisation to suspend the application to the United States of tariff concessions and related obligations under GATT 1994 in accordance with the decision of the Arbitrator.

The CDSOA disbursements for the most recent year for which data were available at that time relate to the distribution of anti-dumping and countervailing duties collected during the fiscal year 2004. On the basis of the data published by the United States' Customs and Border Protection, the level of nullification or impairment caused to the Community was calculated at USD 27.81 million. The Community was, therefore, authorised to suspend the application of its tariff concessions to the United States for an equivalent amount.

The effect of a 15 % ad valorem additional import duty on imports of the products in Annex I originating in the United States represented a value of trade that did not exceed USD 27.81 million. In respect of those products, the Community suspended the application of its tariff concessions to the United States from 1 May 2005.

**CONTENT:** on 12 June 2014, the Commission presented a proposal for a Regulation of the European Parliament and of the Council codifying 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. In its opinion of 17 September 2014 the Consultative Working Party of the legal services stated that the proposal was confined to a straightforward codification, without any substantive changes to the acts covered by it.

Having regard to the amendment adopted to the proposal, the Commission has decided to an amended proposal for codification of the Regulation in question.

**Additional duty:** the amended proposal provides that the tariff concessions and related obligations under GATT 1994 of the Union are suspended in respect of products originating in the United States listed in Annex I to this Regulation. It provides that an ad valorem duty of 1.5 % additional to the customs duty applicable under Council Regulation (EEC) No 2913/9210 shall be imposed on the products originating in the United States listed in Annex I. This duty will be added to customs duties payable under Council Regulation (EEC) No 2913 establishing the Community Customs Code.

**Annual adjustment:** if the non-implementation of the DSB ruling and recommendation persists, the Commission should adjust annually the level of suspension to the level of nullification or impairment caused by the CDSOA to the Union at that time. The Commission should, whilst

respecting certain criteria, amend the list in Annex I or the rate of the additional import duty so that the effect of the additional duty on imports from the United States of the selected products represents, over one year, a value of trade that does not exceed the amount of nullification or impairment (being USD 27.81 million.).

A further amendment aims to add Commission Delegated Regulation (EU) 2015/675 to Annex III.

## 2014/0175(COD) - 23/06/2016 Initial legislative proposal

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**PURPOSE:** to codify 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.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** Council Regulation (EC) No 673/2005 has been substantially amended several times. In the interests of clarity and rationality, that Regulation should be codified.

To recall, on 12 June 2014, the Commission presented a proposal for a Regulation of the European Parliament and of the Council codifying Council Regulation (EC) No 673/2005. On 17 July 2015, the Commission presented an amended proposal for the codification of Regulation (EC) No 673/2005, following subsequent amendments to it.

Having regard to the amendments adopted in respect of Regulation (EC) No 673/2005 and in view of the work already carried out in the course of the legislative procedure, the Commission has decided to present another amended proposal for codification of the Regulation in question.

**CONTENT:** the proposed Regulation stipulates that the tariff concessions and related obligations under GATT 1994 of the Union are suspended in respect of products originating in the United States listed in Annex I to this Regulation.

An ad valorem duty of 0.45 % 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.

The proposal recalled that on 27 January 2003, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) adopted the Appellate Body report and the Panel report, as upheld by the Appellate Body report, finding that the Continued Dumping and Subsidy Offset Act (CDSOA) was incompatible with the United States' obligations under the 'WTO' agreements.

In accordance with the decision of the Arbitrator on this issue, on 26 November 2004, the DSB granted the authorisation to suspend the application to the United States of tariff concessions and related obligations under GATT 1994 in accordance with the decision of the Arbitrator. On the basis of the data published by the United States' Customs and Border Protection (from 1 October 2003 to 30 September 2004), the level of nullification or impairment caused to the Community was calculated at USD 27.81 million.

Under this draft Regulation, the Commission should adjust the level of suspension annually to the level of nullification or impairment caused by the United States' Continued Dumping and Subsidy Offset Act ('CDSOA') to the Union at that time. The Commission should respect certain conditions. In particular, the level of nullification or impairment shall be equal to 72 % of the amount of disbursements under the CDSOA relating to anti-dumping and countervailing duties paid on imports from the Union for the most recent year for which data are available at that time, as published.

**DELEGATED ACTS:** the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

## 2014/0175(COD) - 04/07/2017 Legislative proposal

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**PURPOSE:** to submit a new amended proposal for a Regulation of the European Parliament and of the Council codifying Council Regulation (EC) No 673/2005 establishing on additional customs duties on imports of certain products originating in the United States of America.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** on 12 June 2014, the Commission presented a proposal for a Regulation of the European Parliament and of the Council codifying Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America.

On 17 July 2015, in the light of the amendments made in the meantime, the Commission presented an initial amended proposal for codification of Regulation (EC) No 673/2005 (see the summary dated the same day).

Having regard to the amendments adopted in respect of Regulation (EC) No 673/2005 and in view of the work already carried out in the course of the legislative procedure, the Commission has decided to present another amended proposal for codification of the Regulation in question.

**CONTENT:** the main elements of the new amended proposal are as follows:

**Additional rights:** the amended proposal stipulates that the tariff concessions and related obligations under GATT 1994 of the Union are suspended in respect of products originating in the United States listed in Annex I to this Regulation.

It provides the imposition of an additional 4.35 % ad valorem duty on products originating in the United States listed in that Annex. This duty

would be in addition to the customs duties applicable under Regulation (EU) No 952/2013 of the European Parliament and of the Council establishing the Union Customs Code.

Annual adjustments: the Commission shall adjust the level of suspension annually to the level of nullification or impairment caused by the United States' Continued Dumping and Subsidy Offset Act (CDSOA) to the Union at that time.

The Commission shall amend the rate of the additional duty or the list in Annex I under the following conditions:

- the level of nullification or impairment shall be equal to 72 % of the amount of disbursements under the CDSOA relating to anti-dumping and countervailing duties paid on imports from the Union for the most recent year for which data are available at that time, as published by the United States' authorities;
- the amendment shall be made so that the effect of the additional import duty on imports of the selected products originating in the United States represents, over one year, a value of trade that does not exceed the level of nullification or impairment (\$ 27.81 million);
- the Commission shall amend the rate of the additional duty when 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.

Another amendment seeks to add the reference to [Commission Delegation Regulation \(EU\) 2017/750](#) in Annex III.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

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## 2014/0175(COD) - 24/10/2017 Committee report tabled for plenary, 1st reading/single reading

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The Committee on Legal Affairs adopted the report by Jiří MATÁLKA (GUE/NGL, CZ) on the amended proposal for a regulation of the European Parliament and of the Council on additional customs duties on imports of certain products originating in the United States of America (codification).

The committee recommended that the European Parliament adopt its position at first reading, taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

Following the examination of the amended proposal for a Regulation of the European Parliament and of the Council codifying Council Regulation (EC) No 673/2005, the Consultative Working Party concluded, without dissent, that the proposal is a straightforward codification of existing texts, without any change in their substance.

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## 2014/0175(COD) - 12/12/2017 Text adopted by Parliament, 1st reading/single reading

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The European Parliament adopted by 627 votes to 7, with 20 abstentions, a legislative resolution on the amended proposal for a regulation of the European Parliament and of the Council on additional customs duties on imports of certain products originating in the United States of America (codification).

Parliament adopted its position at first reading under the ordinary legislative procedure without making any amendments to the Commission proposal.

The Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, concluded that the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

The amended proposal stipulates that the tariff concessions and related obligations under GATT 1994 of the Union are suspended in respect of products originating in the United States listed in Annex I to this Regulation.

As a result of the Continued Dumping and Subsidy Offset Act (CDSOA), the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) granted, on 26 November 2004, the authorisation to suspend the application of such tariff concessions with respect to the United States.

The codified version of Council Regulation (EC) No 673/2005 provides an ad valorem import duty of 4.3% additional on the products originating in the United States listed in Annex I to this Regulation. This duty would be added to the customs duty applicable under Regulation (EU) No 952/2013 of the European Parliament and of the Council establishing the Union Customs Code.

The Commission shall adjust the level of suspension annually to the level of nullification or impairment caused by the United States' Continued Dumping and Subsidy Offset Act (CDSOA) to the Union at that time. It shall amend the rate of the additional import duty or the list in Annex I while respecting the conditions laid down in the Regulation.

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## 2014/0175(COD) - 07/02/2018 Final act

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PURPOSE: to adopt a codified version of Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America.

LEGISLATIVE ACT: 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.

CONTENT: this Regulation consolidates and replaces Council Regulation (EC) No 673/2005 establishing additional customs duties on imports of certain products originating in the United States of America. The codification is carried out for the sake of clarity and rationality, since the Regulation has been substantially amended several times.

The main elements of the codified Regulation are:

Additional duties: the Regulation stipulates that the tariff concessions and related obligations under GATT 1994 of the Union shall be suspended in respect of products originating in the United States listed in Annex I to this Regulation. It states that an ad valorem import duty of 4.3 % additional to the customs duty applicable under [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council laying down the Union Customs Code shall be imposed on the products originating in the United States listed in Annex I to this Regulation.

The products on which additional import 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](#) on the tariff and statistical nomenclature and on the Common Customs Tariff:

- 0710 40 00 (sweet corn);
- ex 9003 19 00 (frames of metal base);
- 8705 10 00 (crane lorries);
- 6204 62 31 (other denim trousers).

Not subject to the application of the additional import duty:

- products listed in Annex I for which an import licence with an exemption from, or a reduction of, duty was issued before 30 April 2005;
- products listed in Annex I which are admitted free of import duties pursuant to [Council Regulation \(EC\) No 1186/2009](#) setting up a Community system of reliefs from customs duty.

Annual adjustments: the Commission shall adjust the level of suspension annually to the level of nullification or impairment caused by the United States' Continued Dumping and Subsidy Offset Act (CDSOA) to the Union at that time. It shall amend the rate of the additional import duty or the list in Annex I while respecting the conditions laid down in the Regulation.

ENTRY INTO FORCE: 8.3.2018.

DELEGATED ACTS: the Commission may adopt delegated acts in respect of amending the rate of the additional import duty or the lists in Annexes I and II. The power to adopt such acts is conferred on the Commission for a period of five years (renewable) from 20 February 2014. The European Parliament or the Council shall have the right to oppose a delegated act within a period of two months (extendable two months) from the notification of the act.

## 2014/0175(COD) - 05/03/2019 Follow-up document

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The Commission presented a report on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) 2018/196 of the European Parliament and the Council on additional custom duties on imports of certain products originating in the United States of America.

This Regulation, which entered into force on 8 March 2018, is a codification of Council Regulation (EC) No 673/2005 establishing additional custom duties on imports of certain products originating in the United States of America. This Council Regulation sets out the procedure for adjusting the annual level of retaliation applied in the WTO dispute on the United States Continued Dumping and Subsidy Offset Act of 2000 (CDSOA, or the Byrd Amendment).

The CDSOA was found incompatible with the United States' WTO obligations in January 2003. Given that the United States failed to bring itself in compliance with its obligations under the WTO agreements, the EU was authorised to impose an additional import duty above bound customs duties on a list of US products covering on a yearly basis a total value of trade not exceeding the amount of 72% of the CDSOA disbursement from duties collected on imports from the EU for the most recent year for which data are available.

Following the codification of Council Regulation (EC) No 673/2005, the power to adopt delegated acts was conferred upon the Commission for a period of five years from 20 February 2014.

As the EU Regulation entered into force on 8 March 2018, no delegated acts have been adopted so far. However, since 20 February 2014 the Commission has adopted four (4) delegated acts based on the Council Regulation (EC) No 673/2005 (the predecessor of the EU Regulation) as follows:

- [Commission Delegated Regulation \(EU\) 2015/675](#) of 26 February 2015 establishing an additional import duty of 1.5% on the products listed in Annex I;

- [Commission Delegated Regulation \(EU\) 2016/654](#) of 26 February 2016 Council Regulation (EC) No 673/2005 establishing an additional import duty of 0.45% on the products listed in Annex I;

- [Commission Delegated Regulation \(EU\) 2017/750](#) of 24 February 2017 establishing an additional import duty of 4.3% on the products listed in Annex I; and

- [Commission Delegated Regulation \(EU\) 2018/632](#) of 19 February 2018 establishing an additional import duty of 0.3% on the products listed in Annex I.

The power to adopt each of the delegated acts listed above was exercised in order to accurately adjust the yearly level of additional import duty to the actual amount of nullification and impairment calculated based on the amount of duties collected on EU products in the most recent yearly distributions by the United States under the CDSOA. In each of the above cases, this adjustment led to a modification of the additional applied duty rate on the limitative list of products listed in Annex 1 to the EU Regulation.