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Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p> <p>2018/0101(COD)</p>	Procedure completed
<p>Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries</p>	
<p>Subject</p> <p>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</p> <p>Singapore Vietnam Japan</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<p> International Trade</p>	<p> <a href="#">FJELLNER Christofer</a></p> <p>Shadow rapporteur</p> <p> <a href="#">MAVRIDES Costas</a></p> <p> <a href="#">MCCLARKIN Emma</a></p> <p> <a href="#">HIRSCH Nadja</a></p> <p> <a href="#">SÁNCHEZ CALDENTEY Lola</a></p> <p> <a href="#">JADOT Yannick</a></p> <p> <a href="#">BEGHIN Tiziana</a></p>	23/04/2018
Council of the European Union European Commission	Commission DG <a href="#">Trade</a>	Commissioner MALMSTRÖM Cecilia	

Key events			
18/04/2018	Legislative proposal published	<a href="#">COM(2018)0206</a>	Summary
19/04/2018	Committee referral announced in Parliament, 1st reading		
11/10/2018	Vote in committee, 1st reading		
11/10/2018	Committee decision to open		

	interinstitutional negotiations with report adopted in committee		
16/10/2018	Committee report tabled for plenary, 1st reading	<a href="#">A8-0330/2018</a>	Summary
22/10/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
24/10/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
10/12/2018	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	<a href="#">PE631.891</a>	
15/01/2019	Results of vote in Parliament		
15/01/2019	Decision by Parliament, 1st reading	<a href="#">T8-0007/2019</a>	Summary
13/02/2019	Act adopted by Council after Parliament's 1st reading		
13/02/2019	Final act signed		
13/02/2019	End of procedure in Parliament		
22/02/2019	Final act published in Official Journal		

#### Technical information

Procedure reference	2018/0101(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the EU TFEU 207-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	INTA/8/12811

#### Documentation gateway

Legislative proposal	<a href="#">COM(2018)0206</a>	18/04/2018	EC	Summary
Committee draft report	PE626.666	26/07/2018	EP	
Amendments tabled in committee	PE627.656	11/09/2018	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0330/2018</a>	16/10/2018	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T8-0007/2019</a>	15/01/2019	EP	Summary
Draft final act	<a href="#">00068/2018/LEX</a>	13/02/2019	CSL	
Commission response to text adopted in plenary	SP(2019)150	27/02/2019	EC	

#### Final act

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## Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries

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**PURPOSE:** to implement safeguard clauses and other mechanisms allowing for the temporary withdrawal of tariff preferences in certain agreements concluded between the European Union, on the one hand, and certain third countries, on the other.

**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:** the majority of the EU trade agreements include a bilateral safeguard clause. This clause provides for the possibility to suspend the further tariff liberalization or to re-instate the Most Favoured Nation (MFN) customs duty rate when, as a result of trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the domestic producers producing the like or directly competitive product.

In addition, some EU trade agreements may include special mechanisms which also confer the possibility to reintroduce the MFN customs duty rate.

It is necessary to lay down the procedures to guarantee the effective application of the safeguard clauses that will have been agreed with the countries concerned. The Agreements may also include other mechanisms for temporary withdrawal of tariff or of other preferential treatment. It is also necessary to lay down the procedures for the application of such mechanisms, where included in the Agreements.

So far, it has been a consistent practice that the Commission proposed an implementing regulation in conjunction with each separate recent trade agreement. Based on past experience and existing regulations, it is suggested that the whole process could be streamlined by proposing a horizontal bilateral safeguard regulation which could be used for all future FTAs

**CONTENT:** the proposal for a Regulation lays down provisions for the implementation of the bilateral safeguard clauses and other mechanisms on the temporary withdrawal of tariff preferences or other preferential treatment contained in the Agreements concluded between the Union and a third country referred to in the Annex to the Regulation.

The proposed Regulation would specify the procedural details and technical aspects common to any bilateral safeguard instrument (initiation and conduct of investigations, procedures for the provisional adoption and definitive measures, duration and review of safeguard measures, adoption of prior surveillance measures on imports from a country concerned, etc.).

A separate chapter would set the procedural rules concerning special mechanisms. An Annex would reflect the applicability of the regulation for a specific FTA partner in question as well as any specificities of the trade agreement in question.

The Regulation for the moment foresees the implementation of the EU-Singapore Free Trade Agreement (FTA), the EU-Vietnam FTA and the EU-Japan FTA. It is also proposed that future trade agreements would be added to the scope of the regulation by delegated acts.

## Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries

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The Committee on International Trade adopted the report by Christofer FJELLNER (EPP, SE) on the proposal for a regulation of the European Parliament and of the Council implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the European Union and certain third countries.

As a reminder, the proposal for a Regulation aims to lay down provisions for the implementation of the bilateral safeguard clauses and other mechanisms on the temporary withdrawal of tariff preferences or other preferential treatment contained in the Agreements concluded between the Union and a third country referred to in the Annex to the Regulation.

The approach adopted by the Commission is a horizontal regulation applicable to future free trade agreements (FTAs).

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

**Definitions:** Members specified that the determination of the existence of a 'threat of serious injury' to position of Union industry means serious injury that is clearly imminent and shall be based on verifiable information.

**Monitoring of agreements:** the follow up and review of the Agreements, the conduct of investigations and, where appropriate, the imposition of safeguard measures shall be carried out in the most transparent manner possible. The European Parliament shall be kept informed and involved at all stages of the procedure and, in particular, prior to the adoption of any safeguard measures.

The Commission shall monitor weekly the evolution of import statistics of sensitive products, if any, mentioned in Annex in respect of each Agreement. It shall monitor the observance by third countries of the social and environmental standards laid down therein. Upon request by the responsible committee of the European Parliament, the Commission shall report to it on any specific concerns relating to the implementation by the third countries concerned of their commitments on trade and sustainable development.

**Initiation of the investigation:** under the amended text, a request for initiating an investigation may also be submitted jointly by Union industry, or by any natural or legal person or any association not having legal personality acting on behalf thereof, and trade unions, or be supported by trade unions. An investigation may be opened in the event of a surge in imports concentrated in one or more Member States or in the

outermost regions.

Where the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission shall carefully examine whether the conditions for initiating an investigation are fulfilled and if so, proceed as laid down in this Regulation. If the Commission considers that the conditions are not fulfilled, it shall present a report to the responsible committee of the European Parliament including an explanation of all the factors relevant to the rejection of such an investigation.

Conduct of the investigation: Members considered that the Commission shall facilitate access to the investigation for diverse and fragmented industry sectors, largely composed of small and medium-sized enterprises (SMEs), through a dedicated SME Helpdesk that shall make available standard forms for statistics to be submitted for standing purposes and questionnaires.

The Commission shall appoint a Hearing Officer whose powers and responsibilities shall be set out in a mandate adopted by the Commission and who shall safeguard the effective exercise of the procedural rights of the interested parties.

Outermost regions of the Union: certain products, including agricultural products that are produced in significant quantities in any or several of the outermost regions might be sensitive products and particular attention shall be paid to them when applying this Regulation. Appropriate provisions shall therefore apply where a product is imported in such large quantities or under such conditions as to cause or potentially cause serious injury to the economic situation of any or several of the outermost regions.

Delegated acts: the Commission may adopt delegated acts in order to set the conditions for monitoring, the deadline for investigations, the reporting procedures and the criteria for examining these procedures for other mechanisms and criteria relating to the temporary withdrawal of tariff preferences or other preferential treatment.

## Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries

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The European Parliament adopted by 544 votes to 58, with 94 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the European Union and certain third countries.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal as follows.

### Subject matter and scope

This Regulation lays down provisions for the implementation of bilateral safeguard clauses and other mechanisms for the temporary withdrawal of tariff preferences or of other preferential treatment contained in the trade agreements concluded between the Union and one or more third countries and referred to in the Annex to this Regulation.

Parliament stated that these provisions shall apply without prejudice to any specific provisions contained in the trade agreements and listed in the Annex in relation to bilateral safeguard clauses or other mechanisms for the temporary withdrawal of tariff preferences or of other preferential treatment, where such provisions are not in accordance with this Regulation.

Therefore, the Regulation shall not prevent the Commission from negotiating such specific provisions in future trade agreements with third countries.

### Initiation of the investigation

Under the amended text, a request for initiating an investigation may also be submitted jointly by Union industry, or by any natural or legal person or any association not having legal personality acting on behalf thereof, and trade unions, or be supported by trade unions. In addition, requests for the initiation of an investigation may be supported by trade unions.

The Commission shall provide a copy of the request to initiate an investigation to the Member States before it initiates the investigation. Where the Commission intends to initiate an investigation on its own initiative, it shall provide information to the Member States once it has determined the need to initiate that investigation.

### Conduct of the investigation

The Commission shall evaluate all relevant factors of an objective and quantifiable nature that affect the situation of the Union industry, including the rate of market shares. It shall facilitate access to the investigation for diverse and fragmented industry sectors, largely composed of small and medium-sized enterprises (SMEs), through a dedicated SME Helpdesk that shall make available standard forms for statistics to be submitted for standing purposes and questionnaires.

The Commission shall appoint a Hearing Officer whose powers and responsibilities shall be set out in a mandate adopted by the Commission and who shall safeguard the effective exercise of the procedural rights of the interested parties.

### Delegated acts

The Commission may adopt delegated acts in respect of adding or deleting entries relating to a trade agreement, any specific provisions contained in a trade agreement and related to safeguard measures or other mechanisms for the temporary withdrawal of tariff preferences or of other preferential treatment that are not in accordance with this Regulation, any products identified as sensitive by a trade agreement, or any provisions laying down specific rules for other mechanisms.

The European Parliament and the Council receive all documents at the same time as Member States experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

The follow up and review of trade agreements, the conduct of investigations and, where appropriate, the imposition of safeguard measures, should be carried out in the most transparent manner possible.

# Implementing the safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain agreements concluded between the EU and certain third countries

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**PURPOSE:** to adopt a horizontal framework to ensure the consistency of safeguard measures in free trade agreements.

**LEGISLATIVE ACT:** Regulation (EU) 2019/287 of the European Parliament and of the Council implementing bilateral safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain trade agreements concluded between the European Union and third countries.

**CONTENT:** the Union regularly concludes trade agreements with third countries, in which it grants those countries preferential treatment. Such trade agreements might include bilateral safeguard clauses and other mechanisms for the temporary withdrawal of tariff preferences or of other preferential treatment, such as stabilisation mechanisms for certain sensitive products.

This Regulation lays down provisions for the implementation of bilateral safeguard clauses and other mechanisms for the temporary withdrawal of tariff preferences or of other preferential treatment contained in the trade agreements concluded between the Union and one or more third countries and referred to in the Annex to this Regulation.

Safeguard measures may only be considered if the product concerned is imported into the Union in such increased quantities, in absolute terms or in relation to Union production, and under such conditions as to cause or threaten to cause serious injury to Union industry producing similar or directly competitive products.

## Conduct of investigations

The Commission may request information from the Member States, which shall take all necessary measures to comply with this request. As far as possible, the investigation should be concluded within six months of the day on which the notice of initiation is published in the Official Journal of the European Union. This period may exceptionally be extended by three months.

The Commission shall facilitate access to the investigation for diverse and fragmented industry sectors, which are largely composed of small and medium-sized enterprises (SMEs), through a dedicated SME Helpdesk.

The Commission shall have in place the office of the Hearing Officer whose powers and responsibilities are set out in a mandate adopted by the Commission and who shall safeguard the effective exercise of the procedural rights of the interested parties.

## Prior surveillance and provisional safeguard measures

The Commission may adopt prior surveillance measures with regard to imports of a product from a country concerned where the trend in imports of that product is such that it could lead to a situation threatening to cause serious injury to an industry. It shall also be allowed to apply provisional safeguard measures in critical circumstances.

## Monitoring

The Commission shall regularly monitor the evolution of import statistics for any sensitive products mentioned in the Annex to the Regulation for each of the agreements. It shall present to the European Parliament and the Council an annual monitoring report on import statistics for sensitive products.

## Countries covered

The Regulation for the moment foresees the implementation of the EU-Singapore Free Trade Agreement (FTA), the EU-Vietnam FTA and the EU-Japan FTA. It is also proposed that future trade agreements would be added to the scope of the regulation by delegated acts.

**ENTRY INTO FORCE:** 13.3.2019.