COMMISSION REGULATION (EC) No 409/2007

of 16 April 2007

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 COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 compliance with its obligations under the 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 to 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 Community 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 2006 (1 October 2005-30 September 2006). 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 is calculated at USD 81.19 million.

(3) Since the level of nullification or impairment and consequently of suspension has increased, the first 32 products of the list in Annex II to Regulation (EC) No 673/2005 as amended by Commission Regulation (EC) No 632/2006 should be added to the list in Annex I to that Regulation.

(4) The effect of a 15 % *ad valorem* additional import duty on imports from the United States of the products in the amended Annex I represents, over one year, a value of trade that does not exceed USD 81.19 million.

(5) Articles 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 32 products now added 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]: 4803 00 31, 4818 30 00, 4818 20 10, 9403 70 90, 6110 90 10, 6110 19 10, 6110 19 90, 6110 12 10, 6110 11 10, 6110 30 10, 6110 12 90, 6110 20 10, 6110 11 30, 6110 11 90, 6110 90 90, 6110 30 91, 6110 30 99, 6110 20 99, 6110 20 91, 9608 10 10, 6402 19 00, 6404 11 00, 6403 19 00, 6105 20 90, 6105 20 10, 6106 10 00, 6206 40 00, 6205 30 00, 6206 30 00, 6105 10 00, 6205 20 00 and 9406 00 11.

[1] OJ L 110, 30.4.2005, p. 1. Regulation as amended by Commission Regulation (EC) No 632/2006 (OJ L 111, 25.4.2006, p. 5).

[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).

2. Products for which it can be demonstrated that they are already en route to the Community 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 [1]: 4803 00 31, 4818 30 00, 4818 20 10, 9403 70 90, 6110 90 10, 6110 19 10, 6110 19 90, 6110 12 10, 6110 11 10, 6110 30 10, 6110 12 90, 6110 20 10, 6110 11 30, 6110 11 90, 6110 90 90, 6110 30 91, 6110 30 99, 6110 20 99, 6110 20 91, 9608 10 10, 6402 19 00, 6404 11 00, 6403 19 00, 6105 20 90, 6105 20 10, 6106 10 00, 6206 40 00, 6205 30 00, 6206 30 00, 6105 10 00, 6205 20 00 and 9406 00 11.

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 2007.

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

Done at Brussels, 16 April 2007.

For the Commission
Peter MANDELSON
Member of the Commission

[1] 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 90	6301 30 90	6110 90 90
4820 50 00	6301 40 90	6110 30 91
4820 90 00	4818 50 00	6110 30 99
4820 30 00	9009 11 00	6110 20 99
4820 10 50	9009 12 00	6110 20 91
6204 63 11	8467 21 99	9608 10 10
6204 69 18	4803 00 31	6402 19 00
6204 63 90	4818 30 00	6404 11 00
6104 63 00	4818 20 10	6403 19 00
6203 43 11	9403 70 90	6105 20 90
6103 43 00	6110 90 10	6105 20 10
6204 63 18	6110 19 10	6106 10 00
6203 43 19	6110 19 90	6206 40 00
6204 69 90	6110 12 10	6205 30 00
6203 43 90	6110 11 10	6206 30 00
0710 40 00	6110 30 10	6105 10 00
9003 19 30	6110 12 90	6205 20 00
8705 10 00	6110 20 10	9406 00 11
6301 40 10	6110 11 30	
6301 30 10	6110 11 90	

[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.

9406 00 38	6101 30 90	6104 43 00
6101 30 10	6202 93 00	6204 49 10
6102 30 10	6202 11 00	6204 44 00
6201 12 10	6201 13 90	6204 43 00
6201 13 10	6201 93 00	6203 42 31
6102 30 90	6201 12 90	6204 62 31
6201 92 00	6204 42 00	