



Bulletin 20-49 October 23, 2020

CIAA Bulletin

An Exclusive CIAA Member
Update

WTO Rules That EU Can Impose \$4 Billion in Tariffs on U.S. Imports, CIAA Receives Preview of Provisional EU Retaliation List

The World Trade Organization (WTO) issued a [decision](#) that the European Union (EU) is authorized to impose tariffs on approximately \$4 billion worth of annual imports from the United States, an amount the WTO found to be “commensurate with the degree and nature of the adverse effects determined to exist.” The WTO’s decision is part of a long-time dispute between the United States and the EU over their respective subsidies to Boeing and Airbus.

Last year, the WTO [ruled in favor](#) of the U.S. in its parallel complaint against the EU over Airbus subsidies, authorizing the U.S. to impose tariffs on up to approximately \$7.5 billion worth of imports from the EU. Following last year’s WTO decision, the United States Trade Representative (USTR) [imposed](#) a 10 percent duty on large civil aircraft (later [increased to 15 percent](#)) and a 25 percent duty on certain other goods imported from the EU.

The WTO’s ruling in favor of the EU effectively allows the EU to retaliate to those U.S. tariffs. EU Trade Commissioner Valdis Dombrovkis stated that he “would much prefer not to do so” but is “fully prepared for this possibility”. The European Commission’s [press release](#) on the matter indicates that the EU aims to settle the dispute through negotiations with the United States, rather than to immediately implement new tariffs.

USTR [responded](#) to the WTO’s decision, asserting that the EU had no legal basis to impose aircraft tariffs of its own, since the WTO only authorized retaliation to a

Washington State Business & Occupation tax break that was repealed on April 1, 2020. USTR argues that “under WTO rules, a WTO Member can apply authorized countermeasures only until the illegal measure, or the harm from that measure, is eliminated, which has already occurred in this dispute.” USTR also stated that the U.S. sent the EU a proposal to end the dispute where the U.S. would remove duties on EU goods if Airbus repays billions of dollars in aid to European governments.

From CIAA’s understanding, the EU sent a counteroffer to the US proposal late last week. The earliest the EU can impose tariffs is October 26, 2020, when the WTO Dispute Settlement Body (DSB) is set to meet next. The EU cannot impose duties until the decision is adopted by the WTO DSB.

The CIAA also recently received a [provisional list](#) of U.S. products under consideration by the European Commission for potential retaliation. The provisional list of potential U.S. products, valued at approximately \$2.5 Billion, includes a wide range of agricultural and non-agricultural products, such as concentrated milk proteins, cheeses, fruits, juices, wheat, tree nuts, tobacco, chocolate, sauces, spirits, salmon, essential oils, handbags, tractors, motorcycles, video game equipment, and gym equipment. The relevant dairy tariff subheadings are as follows:

- 35029020 – Albumins, unfit, or to be rendered unfit, for human consumption (excl. egg albumin and milk albumin [incl. concentrates of two or more whey proteins containing by weight > 80% whey proteins, calculated on the dry matter])
- 35029070 – Albumins, fit for human consumption (excl. egg albumin and milk albumin [incl. concentrates of two or more whey proteins containing by weight > 80% whey proteins, calculated on the dry matter])
- 35040010 – Concentrated milk proteins with a protein content > 85% by weight, calculated on the dry matter
- 35040090 – Peptones and their derivatives; other albuminous substances and their derivatives, n.e.s; hide powder, whether or not chromed (excl. concentrated milk proteins with a protein content > 85% by weight, calculated on the dry matter)
- 04061050 – Fresh cheese “unripened or uncured cheese”, incl. whey cheese and curd of a fat content, by weight, of <= 40% (excl. mozzarella)
- 04069021 – Cheddar (excl. grated or powdered and for processing)
- 04069086 – Cheese, of a fat content by weight of <= 40% and a water content, by weight, of non-fatty matter of > 47% but <= 52%, n.e.s.

We will continue to monitor these developments closely. If you have any questions regarding this, please do not hesitate to contact the Husch Blackwell LLP team at CIAAGeneralCounsel@huschblackwell.com.

Cheese Importers Association of America
Daniel Schnyder
President

email: president@theciaa.org
phone: 202-547-0899

Dates to Remember

OCTOBER 31, 2020

Exporting countries that are designating U.S. importers for calendar year 2021 must submit their designations to FAS by this date.

DECEMBER 20, 2020

(approximately) FAS issues first notice of calendar year 2021 licenses to licensees.

DECEMBER 31, 2020

Last day for licensees to make entries to fulfill the requirement to use 85% of their calendar year 2020 license amount. Last day for which calendar year 2020 licenses are valid.

Cheese Importers Association of America
515 2nd Street, NE
Washington, DC 20002
202-547-0899
Email: info@theciaa.org