

Council Regulation (EC) No 2501/2001 of 10 December
2001 applying a scheme of generalised tariff preferences
for the period from 1 January 2002 to 31 December 2004

TITLE V

TEMPORARY WITHDRAWAL AND SAFEGUARD PROVISIONS

Article 26

1 The preferential arrangements provided for in this Regulation may be temporarily withdrawn, in respect of all or of certain products, originating in a beneficiary country, for any of the following reasons:

- a practice of any form of slavery or forced labour as defined in the Geneva Conventions of 25 September 1926 and 7 September 1956 and ILO Conventions No 29 and No 105;
- b serious and systematic violation of the freedom of association, the right to collective bargaining or the principle of non-discrimination in respect of employment and occupation, or use of child labour, as defined in the relevant ILO Conventions;
- c export of goods made by prison labour;
- d shortcomings in customs controls on export or transit of drugs (illicit substances or precursors), or failure to comply with international conventions on money laundering;
- e fraud, irregularities or systematic failure to comply or to ensure compliance with the rules of origin of products and the proof thereof, and to provide the administrative cooperation as required for the implementation and the control of the respect of the arrangements referred to in Article 1(2);
- f unfair trading practices, including those which are prohibited or actionable under the WTO Agreements, provided that a determination to that effect has been made previously by the competent WTO body;
- g infringement of the objectives of international conventions such as NAFO, NEAFC, ICCAT and NASCO concerning the conservation and management of fishery resources;

2 The administrative cooperation referred to in paragraph 1(e) requires, *inter alia* that a beneficiary country:

- a communicate to the Commission and update the information necessary for the implementation of the rules of origin and the control of respect thereof;
- b assist the Community by carrying out, on request of the customs authorities of Member States, subsequent verification of the proof of origin and communicate its results in time;
- c assist the Community by allowing the Commission, in coordination and close cooperation with the competent authorities of the Member States, to conduct Community administrative and investigative cooperation missions in that country, in order to verify the authenticity of documents or the accuracy of information relevant for granting the benefit of the arrangements referred to in Article 1(2);
- d carry out or arrange for appropriate inquiries to identify and prevent contravention of the rules of origin;
- e comply or ensure compliance with the rules of origin in respect of regional cumulation, if the country benefits therefrom.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2501/2001, TITLE V. (See end of Document for details)

3 Without prejudice to paragraph 1, the special incentive arrangements referred to in Title III may be temporarily withdrawn, in respect of all or certain products included in those arrangements, originating in a beneficiary country, for either of the following reasons:

- a if the national legislation no longer incorporates the standards referred to in Article 14(2) or Article 21(2) or if that legislation is not effectively applied;
- b if the undertaking referred to in Article 15(1) or Article 22(1) is not respected.

4 Without prejudice to Article 11, the preferential arrangements provided for in this Regulation shall not be withdrawn pursuant to paragraph 1(f) in respect of products which are subject to anti-dumping or countervailing measures under Regulations (EC) No 384/96 or (EC) No 2026/97, for the reasons justifying those measures.

Article 27

1 Where the Commission or a Member State receives information that may justify temporary withdrawal and where it considers that there are sufficient grounds for an investigation, it shall inform the Committee and request consultations, which should take place within 15 days.

2 Following the consultations, the Commission may decide, in accordance with the procedure referred to in Article 39, to initiate an investigation.

Article 28

1 Where the Commission decides to initiate an investigation, it shall publish a notice in the *Official Journal of the European Communities* announcing the investigation, and notify the beneficiary country concerned thereof. The notice shall provide a summary of the information received and state that any useful information may be sent to the Commission. It shall specify the period within which interested parties may make their views known in writing.

2 The Commission shall provide the beneficiary country concerned with every opportunity to cooperate in the investigation.

3 The Commission shall seek all information it considers necessary and may verify the information received with economic operators and the beneficiary country concerned. The available assessments, comments, decisions, recommendations and conclusions of the various supervisory bodies of the ILO, including in particular Article 33 procedures, shall serve as the point of departure for the investigation as to whether temporary withdrawal is justified for the reason referred to in Article 26(1)(b).

4 The Commission may be assisted by officials of the Member State on whose territory verification might be sought, if that Member State so requests.

5 Where information requested by the Commission is not provided within a reasonable period or the investigation is significantly impeded, findings may be made on the basis of the facts available.

6 The investigation should be completed within a year. The Commission may extend this period, in accordance with the procedure referred to in Article 39.

Article 29

1 The Commission shall submit a report on its findings to the Committee.

2 Where the Commission considers that the findings do not justify temporary withdrawal, it shall decide, in accordance with the procedure referred to in Article 39, to terminate the investigation. In that case, the Commission shall publish a notice in the Official

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Journal of the *Official Journal of the European Communities*, announcing the termination of the investigation and setting out its main conclusions.

3 Where the Commission considers that the findings justify temporary withdrawal for the reason referred to in Article 26 (1)(b), it shall decide, in accordance with the procedure laid down in Article 39, to monitor and evaluate the situation in the beneficiary country concerned for a period of six months. The Commission shall notify this decision to the beneficiary country concerned and shall publish a notice in the *Official Journal of the European Communities*, announcing that it intends to submit a proposal to the Council for temporary withdrawal, unless, before the end of the period, the beneficiary country concerned made a commitment to take the measures necessary to conform, in a reasonable period of time, with the principles referred to in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

4 Where the Commission considers temporary withdrawal to be necessary, it shall submit an appropriate proposal to the Council, which shall decide within 30 days by a qualified majority.

5 Where at the end of the period referred to in paragraph 3, the Commission finds that the beneficiary country concerned has not made the required commitment, and where it considers temporary withdrawal necessary, it shall submit an appropriate proposal to the Council, which shall decide within 30 days by a qualified majority. Where the Council decides on temporary withdrawal, such decision shall enter into force six months after it was taken, unless it is decided before then that the reasons justifying it no longer prevail.

Article 30

1 After informing the Committee, the Commission may suspend the preferential arrangements provided for in this Regulation in respect of all or of certain products, originating in a beneficiary country:

- a where it considers that there is sufficient evidence that temporary withdrawal is justified for the reasons referred to in Article 26(1)(e), or
- b where imports under these arrangements massively exceed the usual levels of production and export capacity of that country.

2 Member States shall communicate to the Commission all relevant information that may justify suspension of preferences.

3 Where the Commission considers that there is sufficient evidence that the conditions for suspension are met, it shall take all appropriate measures as quickly as possible.

4 The period of suspension shall be limited to three months and may be renewed once. The Commission may extend this period, in accordance with the procedure referred to in Article 39.

Article 31

1 Where a product originating in a beneficiary country is imported on terms which cause, or threaten to cause, serious difficulties to a Community producer of like or directly competing products, normal Common Customs Tariff duties on that product may be reintroduced at any time at the request of a Member State or on the Commission's initiative.

2 Where the Commission decides to initiate an investigation, it shall publish a notice in the *Official Journal of the European Communities* announcing the investigation. The notice shall state that any useful information should be sent to the Commission. It shall specify the period within which interested parties may make their views known in writing.

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3 In examining whether there are serious difficulties, the Commission shall take account, *inter alia*, of the following factors concerning Community producers where the information is available:

- market share,
- production,
- stocks,
- production capacity,
- bankruptcies,
- profitability,
- capacity utilisation,
- employment,
- imports,
- prices.

4 The Commission shall take a decision within 30 working days of consulting the Committee.

5 Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may, after informing the Committee, take any preventive measure which is strictly necessary.

Article 32

Where imports of products included in Annex I to the Treaty cause, or threaten to cause, serious disturbance to Community markets or their regulatory mechanisms, the Commission may suspend the preferential arrangements in respect of the products concerned after informing the management committee for the relevant common market organisation.

Article 33

1 The Commission shall inform the beneficiary country concerned of any decision taken in accordance with Articles 30, 31 or 32 before it becomes effective. The Commission shall also notify the Council and the Member States thereof.

2 Any Member State may refer a decision taken in accordance with Articles 30, 31 or 32 to the Council within ten days. The Council, acting by qualified majority, may adopt a different decision within 30 days.

Article 34

Nothing in this Title shall affect the application of safeguard clauses adopted as part of the common agricultural policy under Article 37 of the Treaty, or as part of the common trade policy under Article 133 of the Treaty, or any other safeguard clauses which may be applied.

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