

Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008

CHAPTER VI

SAFEGUARD AND SURVEILLANCE PROVISIONS

SECTION I

General Safeguards

Article 22

1 Where a product originating in a beneficiary country of any of the preferential arrangements referred to in Article 1(2), is imported in volumes and/or at prices which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, normal Common Customs Tariff duties on that product may be reintroduced.

2 For the purpose of this Chapter, ‘like product’ means a product which is identical, i.e. alike in all respects, to the product under consideration, or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

3 For the purpose of this Chapter, ‘interested parties’ means those parties involved in the production, distribution and/or sale of the imports mentioned in paragraph 1 and of like or directly competing products.

4 The Commission shall be empowered to adopt delegated acts, in accordance with Article 36, to establish rules related to the procedure for adopting general safeguard measures in particular with respect to deadlines, rights of parties, confidentiality, disclosure, verification, visits and review.

Article 23

Serious difficulties shall be considered to exist where Union producers suffer deterioration in their economic and/or financial situation. In examining whether such deterioration exists, the Commission shall take account, inter alia, of the following factors concerning Union producers, where such information is available:

- (a) market share;
- (b) production;
- (c) stocks;
- (d) production capacity;
- (e) bankruptcies;
- (f) profitability;
- (g) capacity utilisation;

- (h) employment;
- (i) imports;
- (j) prices.

Article 24

1 The Commission shall investigate whether the normal Common Customs Tariff duties should be reintroduced if there is sufficient *prima facie* evidence that the conditions of Article 22(1) are met.

2 An investigation shall be initiated upon request by a Member State, by any legal person or any association not having legal personality, acting on behalf of Union producers, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient *prima facie* evidence, as determined on the basis of factors referred to in Article 23, to justify such initiation. The request to initiate an investigation shall contain evidence that the conditions for imposing the safeguard measure set out in Article 22(1) are met. The request shall be submitted to the Commission. The Commission shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the request to determine whether there is sufficient *prima facie* evidence to justify the initiation of an investigation.

3 Where it is apparent that there is sufficient *prima facie* evidence to justify the initiation of proceedings the Commission shall publish a notice in the *Official Journal of the European Union*. Initiation shall take place within one month of the request received pursuant to paragraph 2. Should an investigation be initiated, the notice shall provide all necessary details about the procedure and deadlines, including recourse to the Hearing Officer of the Directorate-General for Trade of the European Commission.

4 An investigation, including the procedural steps referred to in Articles 25, 26 and 27, shall be concluded within 12 months from its initiation.

Article 25

On duly justified grounds of urgency relating to deterioration of the economic and/or financial situation of Union producers, and where delay might cause damage which would be difficult to repair, the Commission shall be empowered to adopt immediately applicable implementing acts in accordance with the urgency procedure referred to in Article 39(4) to reintroduce normal Common Customs Tariff duties for a period of up to 12 months.

Article 26

Where the facts as finally established show that the conditions set out in Article 22(1) are met, the Commission shall adopt an implementing act to reintroduce the Common Customs Tariff duties in accordance with the examination procedure referred to in Article 39(3). That implementing act shall enter into force within one month from the date of its publication in the *Official Journal of the European Union*.

Article 27

Where the facts as finally established show that the conditions set out in Article 22(1) are not met, the Commission shall adopt an implementing act terminating the investigation and proceedings in accordance with the examination procedure referred to in Article 39(3). That implementing act shall be published in the *Official Journal of the European Union*. The investigation shall be deemed terminated, if no implementing act is published within the period referred to in Article 24(4) and any urgent preventive

measures shall automatically lapse. Any Common Customs Tariff duties collected as a result of those provisional measures shall be refunded.

Article 28

Common Customs Tariff duties shall be reintroduced as long as necessary to counteract the deterioration in the economic and/or financial situation of Union producers, or as long as the threat of such deterioration persists. The period of reintroduction shall not exceed three years, unless it is extended in duly justified circumstances.