

Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (codification)

CHAPTER I

GENERAL PRINCIPLES

Article 1

1 This Regulation applies to imports of products originating in third countries, except for:

- a textile products subject to specific import rules under Regulation (EC) No 517/94;
- b products originating in certain third countries listed in Council Regulation (EC) No 625/2009⁽¹⁾.

2 The products referred to in paragraph 1 shall be freely imported into the Union and accordingly, without prejudice to the safeguard measures which may be taken under Chapter V, shall not be subject to any quantitative restrictions.

CHAPTER II

UNION INFORMATION AND CONSULTATION PROCEDURE

Article 2

Member States shall inform the Commission if trends in imports appear to call for surveillance or safeguard measures. This information shall contain the evidence available, as determined on the basis of the criteria laid down in Article 9. The Commission shall immediately pass this information on to all the Member States.

Article 3

1 The Commission shall be assisted by a Committee on Safeguards. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

5 Pursuant to Article 3(5) of Regulation (EU) No 182/2011, where recourse is made to the written procedure for adopting definitive measures pursuant to Article 16 of this Regulation, such procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a majority of committee members as defined in Article 5(1) of Regulation (EU) No 182/2011 so request. Where recourse is made to the written procedure in other instances where there has been a discussion of the draft measure in the Committee, that procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or a simple majority of committee members so request. Where recourse is made to the written procedure in other instances where there has not been a discussion of

the draft measure in the Committee, that procedure shall be terminated without result where, within the time-limit set down by the chair, the chair so decides or at least a quarter of committee members so request.

CHAPTER III

UNION INVESTIGATION PROCEDURE

Article 4

1 Without prejudice to Article 7, the Union investigation procedure shall be implemented before any safeguard measure is applied.

2 Using as a basis the factors referred to in Article 9, the investigation shall seek to determine whether imports of the product in question are causing or threatening to cause serious injury to the Union producers concerned.

3 The following definitions shall apply:

- a 'serious injury' means a significant overall impairment in the position of Union producers;
- b 'threat of serious injury' means serious injury that is clearly imminent;
- c 'Union producers' means the producers as a whole of like or directly competing products operating within the territory of the Union, or those whose collective output of like or directly competing products constitutes a major proportion of the total Union production of those products.

Article 5

1 Where it is apparent to the Commission that there is sufficient evidence to justify the initiation of an investigation, the Commission shall initiate an investigation within 1 month of the date of receipt of information from a Member State and publish a notice in the *Official Journal of the European Union*. That notice shall:

- a give a summary of the information received, and require that all relevant information is to be communicated to the Commission;
- b state the period within which interested parties may make known their views in writing and submit information, if such views and information are to be taken into account during the investigation;
- c state the period within which interested parties may apply to be heard orally by the Commission in accordance with paragraph 4.

The Commission shall commence the investigation, acting in cooperation with the Member States.

The Commission shall provide information to the Member States concerning its analysis of the information normally within 21 days of the date on which the information is provided to the Commission.

2 The Commission shall seek all information it deems necessary and, where it considers it appropriate, after having informed the Member States, endeavour to check that information with importers, traders, agents, producers, trade associations and organisations.

The Commission shall be assisted in this task by staff of the Member State on whose territory those checks are being carried out, provided that that Member State so wishes.

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3 The Member States shall supply the Commission, at its request and following procedures laid down by it, with the information at their disposal on developments in the market of the product being investigated.

4 Interested parties which have come forward pursuant to the first subparagraph of paragraph 1 and representatives of the exporting country may, upon written request, inspect all information made available to the Commission in connection with the investigation other than internal documents prepared by the authorities of the Union or its Member States, provided that that information is relevant to the presentation of their case and not confidential within the meaning of Article 8 and that it is used by the Commission in the investigation.

Interested parties which have come forward may communicate their views on the information in question to the Commission. Those views may be taken into consideration where they are backed by sufficient evidence.

5 The Commission may hear the interested parties. Such parties must be heard where they have made a written application within the period laid down in the notice published in the *Official Journal of the European Union*, showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

6 When information is not supplied within the time limits set by this Regulation or by the Commission pursuant to this Regulation, or the investigation is significantly impeded, findings may be made on the basis of the facts available. Where the Commission finds that any interested party or third party has supplied it with false or misleading information, it shall disregard that information and may make use of facts available.

7 Where it appears to the Commission that there is insufficient evidence to justify an investigation, it shall inform the Member States of its decision within 1 month of the date of receipt of the information from the Member States.

Article 6

1 At the end of the investigation, the Commission shall submit a report on the results to the Committee.

2 Where the Commission considers, within 9 months of the initiation of the investigation, that no Union surveillance or safeguard measures are necessary, the investigation shall be terminated within a month. The Commission shall terminate the investigation in accordance with the advisory procedure referred to in Article 3(2).

3 If the Commission considers that Union surveillance or safeguard measures are necessary, it shall take the necessary decisions in accordance with Chapters IV and V, no later than 9 months from the initiation of the investigation. In exceptional circumstances, this time limit may be extended by a further maximum period of 2 months; the Commission shall then publish a notice in the *Official Journal of the European Union* setting forth the duration of the extension and a summary of the reasons therefor.

Article 7

1 The provisions of this Chapter shall not preclude the use, at any time, of surveillance measures in accordance with Articles 10 to 14 or provisional safeguard measures in accordance with Articles 15, 16 and 17.

Provisional safeguard measures shall be applied:

- a in critical circumstances where delay would cause damage which would be difficult to repair, making immediate action necessary; and

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- b where a preliminary determination provides clear evidence that increased imports have caused or are threatening to cause serious injury.

The duration of such measures shall not exceed 200 days.

2 Provisional safeguard measures shall take the form of an increase in the existing level of customs duty, whether the latter is zero or higher, if such action is likely to prevent or repair the serious injury.

3 The Commission shall immediately conduct whatever investigation measures are still necessary.

4 Should the provisional safeguard measures be repealed because no serious injury or threat of serious injury exists, the customs duties collected as a result of the provisional measures shall be automatically refunded as soon as possible. The procedure laid down in Article 235 et seq. of Council Regulation (EEC) No 2913/92⁽²⁾ shall apply.

Article 8

1 Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

2 The Commission and the Member States, including the officials of either, shall not reveal any information of a confidential nature received pursuant to this Regulation, or any information provided on a confidential basis, without specific permission from the supplier of such information.

3 Each request for confidentiality shall state the reasons why the information is confidential.

However, if it appears that a request for confidentiality is unjustified and if the supplier of the information wishes neither to make it public nor to authorise its disclosure in general terms or in the form of a summary, the information concerned may be disregarded.

4 Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

5 Paragraphs 1 to 4 shall not preclude reference by the Union authorities to general information and in particular to reasons on which decisions taken pursuant to this Regulation are based. Those authorities shall, however, take into account the legitimate interest of legal and natural persons concerned that their business secrets should not be divulged.

Article 9

1 Examination of the trend in imports, of the conditions in which they take place and of serious injury or threat of serious injury to Union producers resulting from such imports shall cover in particular the following factors:

- a the volume of imports, in particular where there has been a significant increase, either in absolute terms or relative to production or consumption in the Union;
- b the price of imports, in particular where there has been a significant price undercutting as compared with the price of a like product in the Union;
- c the consequent impact on Union producers as indicated by trends in certain economic factors such as:
 - production,
 - capacity utilisation,

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- stocks,
 - sales,
 - market share,
 - prices (i.e. depression of prices or prevention of price increases which would normally have occurred),
 - profits,
 - return on capital employed,
 - cash flow,
 - employment;
- d factors other than trends in imports which are causing or may have caused injury to the Union producers concerned.

2 Where a threat of serious injury is alleged, the Commission shall also examine whether it is clearly foreseeable that a particular situation is likely to develop into actual injury.

In this regard account may be taken of factors such as:

- a the rate of increase of the exports to the Union;
- b the export capacity in the country of origin or export, as it stands or is likely to be in the foreseeable future, and the likelihood that that capacity will be used to export to the Union.

CHAPTER IV

SURVEILLANCE

Article 10

1 Where the trend in imports of a product originating in a third country covered by this Regulation threatens to cause injury to Union producers, and where the interests of the Union so require, import of that product may be subject, as appropriate, to:

- a retrospective Union surveillance carried out in accordance with the provisions laid down in the decision referred to in paragraph 2;
- b prior Union surveillance carried out in accordance with Article 11.

2 The decision to impose surveillance shall be taken by the Commission by means of implementing acts in accordance with the advisory procedure referred to in Article 3(2).

3 The surveillance measures shall have a limited period of validity. Unless otherwise provided, they shall cease to be valid at the end of the second 6-month period following the 6 months in which the measures were introduced.

Article 11

1 Products under prior Union surveillance may be put into free circulation only on production of a surveillance document. Such document shall be issued by the competent authority designated by Member States, free of charge, for any quantity requested and within a maximum of 5 working days of receipt by the national competent authority of an application by any Union importer, regardless of his place of business in the Union. This application shall be deemed to have been received by the national competent authority no later than 3 working days after submission, unless it is proved otherwise.

2 The surveillance document shall be made out on a form corresponding to the model in Annex I.

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Except where the decision to impose surveillance provides otherwise, the importer's application for surveillance documents shall contain only the following:

- a the full name and address of the applicant (including telephone and fax numbers and any number identifying the applicant to the competent national authority), plus the applicant's VAT registration number if he is liable for VAT;
- b where appropriate, the full name and address of the declarant or of any representative appointed by the applicant (including telephone and fax numbers);
- c a description of the goods giving their:
 - trade name,
 - combined nomenclature code,
 - place of origin and place of consignment;
- d the quantity declared, in kilograms and, where appropriate, any other additional unit (pairs, items, etc.);
- e the value of the goods, cif at Union frontier, in euro;
- f the following statement, dated and signed by the applicant, with the applicant's name spelt out in capital letters:

I, the undersigned, certify that the information provided in this application is true and given in good faith, and that I am established in the Union.

3 The surveillance document shall be valid throughout the Union, regardless of the Member State of issue.

4 A finding that the unit price at which the transaction is effected exceeds that indicated in the surveillance document by less than 5 % or that the total value or quantity of the products presented for import exceeds the value or quantity given in the surveillance document by less than 5 % shall not preclude the release for free circulation of the product in question. The Commission, having heard the opinions expressed in the Committee and taking account of the nature of the products and other special features of the transactions concerned, may fix a different percentage, which, however, should not normally exceed 10 %.

5 Surveillance documents may be used only for such time as arrangements for liberalisation of imports remain in force in respect of the transactions concerned. Such surveillance documents may not in any event be used beyond the expiry of a period which shall be laid down at the same time and by means of the same procedure as the imposition of surveillance, and shall take account of the nature of the products and other special features of the transactions.

6 Where the decision taken pursuant to Article 10 so requires, the origin of products under Union surveillance must be proved by a certificate of origin. This paragraph shall not affect other provisions concerning the production of any such certificate.

7 Where the product under prior Union surveillance is subject to regional safeguard measures in a Member State, the import authorisation granted by that Member State may replace the surveillance document.

8 Surveillance document forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1, to be issued to the applicant, and the other, marked 'Copy for the competent authority' and bearing the number 2, to be kept by the authority issuing the document. For administrative purposes the competent authority may add supplementary copies to form 2.

9 Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 g and 65 g per square metre. Their size shall be 210 mm × 297 mm; the

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type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the surveillance document itself, shall in addition have a yellow printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

10 Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified.

Article 12

Where the import of a product has not been made subject to prior Union surveillance, the Commission, in accordance with Article 17, may introduce surveillance confined to imports into one or more regions of the Union. The Commission shall provide information to the Member States once it decides to introduce surveillance.

Article 13

1 Products under regional surveillance may be put into free circulation in the region concerned only on production of a surveillance document. Such document shall be issued by the competent authority designated by the Member State(s) concerned, free of charge, for any quantity requested and within a maximum of 5 working days of receipt by the national competent authority of an application by any Union importer, regardless of his place of business in the Union. This application shall be deemed to have been received by the national competent authority no later than 3 working days after submission, unless it is proved otherwise. Surveillance documents may be used only for such time as arrangements for imports remain liberalised in respect of the transactions concerned.

2 Article 11(2) shall apply.

Article 14

1 Member States shall communicate to the Commission within the first 10 days of each month in the case of Union or regional surveillance:

- a in the case of prior surveillance, details of the sums of money (calculated on the basis of cif prices) and quantities of goods in respect of which surveillance documents were issued during the preceding period;
- b in every case, details of imports during the period preceding the period referred to in point (a).

The information supplied by Member States shall be broken down by product and by country.

Different provisions may be laid down at the same time and by the same procedure as the surveillance arrangements.

2 Where the nature of the products or special circumstances so require, the Commission may, at the request of a Member State or on its own initiative, amend the timetables for submitting this information.

3 The Commission shall inform the Member States accordingly.

CHAPTER V

SAFEGUARD MEASURES

Article 15

1 Where a product is imported into the Union in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Union producers, the Commission, in order to safeguard the interests of the Union, may, acting at the request of a Member State or on its own initiative:

- a limit the period of validity of surveillance documents within the meaning of Article 11 to be issued after the entry into force of this measure;
- b alter the import rules for the product in question by making its release for free circulation conditional on production of an import authorisation, the granting of which shall be governed by such provisions and subject to such limits as the Commission shall lay down.

The measures referred to in points (a) and (b) shall take effect immediately.

2 As regards members of the WTO, the measures referred to in paragraph 1 shall be taken only when the two conditions indicated in the first subparagraph of that paragraph are met.

3 If establishing a quota, account shall be taken in particular of:

- a the desirability of maintaining, as far as possible, traditional trade flows;
- b the volume of goods exported under contracts concluded on normal terms and conditions before the entry into force of a safeguard measure within the meaning of this Chapter, where such contracts have been notified to the Commission by the Member State concerned;
- c the need to avoid jeopardising the achievement of the aim pursued in establishing the quota.

Any quota shall not be set lower than the average level of imports over the last 3 representative years for which statistics are available unless a different level is necessary to prevent or remedy serious injury.

4 In cases in which a quota is allocated among supplier countries, allocation may be agreed with those of them having a substantial interest in supplying the product concerned for import into the Union.

Failing this, the quota shall be allocated among the supplier countries in proportion to their share of imports into the Union of the product concerned during a previous representative period, due account being taken of any specific factors which may have affected or may be affecting the trade in the product.

Provided that its obligation to see that consultations are conducted under the auspices of the WTO Committee on Safeguards is not disregarded, the Union may nevertheless depart from this method of allocation in the case of serious injury if imports originating in one or more supplier countries have increased in disproportionate percentage in relation to the total increase of imports of the product concerned over a previous representative period.

5 The measures referred to in this Article shall apply to every product which is put into free circulation after their entry into force. In accordance with Article 17 they may be confined to one or more regions of the Union.

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However, such measures shall not prevent the release for free circulation of products already on their way to the Union provided that the destination of such products cannot be changed and that those products which, pursuant to Articles 10 and 11, may be put into free circulation only on production of a surveillance document are in fact accompanied by such a document.

6 Where intervention by the Commission has been requested by a Member State, the Commission, acting in accordance with the examination procedure referred to in Article 3(3), or, in cases of urgency, in accordance with Article 3(4), shall take a decision within a maximum of 5 working days of the date of receipt of such a request.

Article 16

Where the interests of the Union so require, the Commission, acting in accordance with the examination procedure referred to in Article 3(3) and the terms of Chapter III, may adopt appropriate measures to prevent a product being imported into the Union in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competing products.

Article 15(2) to (5) shall apply.

Article 17

Where it emerges, primarily on the basis of the factors referred to in Article 9, that the conditions laid down for the adoption of measures pursuant to Articles 10 and 15 are met in one or more regions of the Union, the Commission, after having examined alternative solutions, may exceptionally authorise the application of surveillance or safeguard measures limited to the region(s) concerned if it considers that such measures applied at that level are more appropriate than measures applied throughout the Union.

These measures must be temporary and must disrupt the operation of the internal market as little as possible.

The measures shall be adopted in accordance with the provisions laid down in Articles 10 and 15.

Article 18

No safeguard measure may be applied to a product originating in a developing country member of the WTO as long as that country's share of Union imports of the product concerned does not exceed 3 %, provided that developing country members of the WTO with less than a 3 % import share collectively account for not more than 9 % of total Union imports of the product concerned.

Article 19

1 The duration of safeguard measures must be limited to the period of time necessary to prevent or remedy serious injury and to facilitate adjustment on the part of Union producers. The period must not exceed 4 years, including the duration of any provisional measure.

2 Such initial period may be extended, except in the case of the measures referred to in the third subparagraph of Article 15(4) provided it is determined that:

- a the safeguard measure continues to be necessary to prevent or remedy serious injury;
- b there is evidence that Union producers are adjusting.

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3 Extensions shall be adopted in accordance with the terms of Chapter III and using the same procedures as the initial measures. A measure so extended shall not be more restrictive than it was at the end of the initial period.

4 If the duration of the measure exceeds 1 year, the measure must be progressively liberalised at regular intervals during the period of application, including the period of extension.

5 The total period of application of a safeguard measure, including the period of application of any provisional measures, the initial period of application and any prorogation thereof, may not exceed 8 years.

Article 20

1 While any surveillance or safeguard measure applied in accordance with Chapters IV and V is in operation, the Commission may, either at the request of a Member State or on its own initiative, and no later than the mid-point of the period of application of measures of a duration exceeding 3 years:

- a examine the effects of the measure;
- b determine whether and in what manner it is appropriate to accelerate the pace of liberalisation;
- c ascertain whether application of the measure is still necessary.

Where the Commission considers that the application of the measure is still necessary, it shall inform the Member States accordingly.

2 Where the Commission considers that any surveillance or safeguard measure referred to in Articles 10, 12, 15, 16 and 17 should be revoked or amended, it shall, acting in accordance with the examination procedure referred to in Article 3(3), revoke or amend the measure.

Where the decision relates to regional surveillance measures, it shall apply from the sixth day following that of its publication in the *Official Journal of the European Union*.

Article 21

1 Where imports of a product have already been subject to a safeguard measure, no further measure shall be applied to that product until a period equal to the duration of the previous measure has elapsed. Such period shall not be less than 2 years.

2 Notwithstanding paragraph 1, a safeguard measure of 180 days or less may be re-imposed for a product if:

- a at least 1 year has elapsed since the date of introduction of a safeguard measure on the import of that product; and
- b such a safeguard measure has not been applied to the same product more than twice in the 5-year period immediately preceding the date of introduction of the measure.

CHAPTER VI

FINAL PROVISIONS

Article 22

Where the interests of the Union so require, the Commission, acting in accordance with the examination procedure referred to in Article 3(3), may adopt appropriate measures implementing legislative acts to allow the rights and obligations of the Union or of all

the Member States, in particular those relating to trade in commodities, to be exercised and fulfilled at international level.

Article 23

The Commission shall include information on the implementation of this Regulation in its annual report on the application and implementation of trade defence measures presented to the European Parliament and to the Council pursuant to Article 22a of Council Regulation (EC) No 1225/2009⁽³⁾.

Article 24

1 This Regulation shall not preclude the fulfilment of obligations arising from special rules contained in agreements concluded between the Union and third countries.

2 Without prejudice to other Union provisions, this Regulation shall not preclude the adoption or application by Member States of:

- a prohibitions, quantitative restrictions or surveillance measures on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property;
- b special formalities concerning foreign exchange;
- c formalities introduced pursuant to international agreements in accordance with the Treaty on the Functioning of the European Union.

The Member States shall inform the Commission of the measures or formalities they intend to introduce or amend in accordance with the first subparagraph.

In the event of extreme urgency, the national measures or formalities in question shall be communicated to the Commission immediately upon their adoption.

Article 25

1 This Regulation shall be without prejudice to the operation of the instruments establishing the common organisation of agricultural markets or of Union or national administrative provisions derived therefrom or of the specific instruments applicable to goods resulting from the processing of agricultural products. It shall operate by way of complement to those instruments.

2 In the case of products covered by the instruments referred to in paragraph 1, Articles 10 to 14 and Article 21 shall not apply to those in respect of which the Union rules on trade with third countries require the production of a licence or other import document.

Articles 15, 17 and 20 to 24 shall not apply to those products in respect of which such rules provide for the application of quantitative import restrictions.

Article 26

Regulation (EC) No 260/2009 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 27

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2015/478 of the European Parliament and of the Council. (See end of Document for details)

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

Done at Strasbourg, 11 March 2015.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

Z. KALNIŅA-LUKAŠEVICA

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2015/478 of the European Parliament and of the Council. (See end of Document for details)

- (1) Council Regulation (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries ([OJ L 185, 17.7.2009, p. 1](#)).
- (2) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([OJ L 302, 19.10.1992, p. 1](#)).
- (3) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ([OJ L 343, 22.12.2009, p. 51](#)).

Changes to legislation:

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