

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

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.

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.

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.