Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (recast)

REGULATION (EU) 2015/755 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 29 April 2015

on common rules for imports from certain third countries

(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Council Regulation (EC) No 625/2009[(3)] has been substantially amended[(4)]. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

(2) The common commercial policy should be based on uniform principles.

(3) Uniformity in the rules for imports should be assured by laying down, as far as possible given the particular features of the economic system in the third countries in question, provisions similar to those applied under the common rules for other third countries.

(4) The common rules applicable to imports also apply to coal and steel products, without prejudice to any measures implementing an agreement relating specifically to such products.

(5) The liberalisation of imports, namely the absence of any quantitative restrictions, should therefore form the starting point for the Union rules.

(6) In the case of some products, the Commission should examine import terms and conditions, import trends, the various aspects of the economic and commercial situation, and the measures, if any, to be taken.

(7) For those products, it may become apparent that there should be Union surveillance over certain of these imports.

(8) It is for the Commission to adopt the safeguard measures required by the interests of the Union with due regard for existing international obligations.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/755 of the European Parliament and of the Council. (See end of Document for details)*

(9) Surveillance or safeguard measures confined to one or more regions of the Union may prove more suitable than measures applying to the whole Union. However, such measures should be authorised only exceptionally and where no alternative exists. It is necessary to ensure that such measures are temporary and cause the minimum of disruption to the operation of the internal market.

(10) If Union surveillance is applied, release for free circulation of the products concerned should be made subject to presentation of a surveillance document meeting uniform criteria. That document should, on simple application by the importer, be issued by the authorities of the Member States within a certain period but without the importer thereby acquiring any right to import. The surveillance document should therefore be valid only during such period as the import rules remain unchanged.

(11) In the interests of good administrative management and in order to assist Union operators, the content and layout of the surveillance document should be aligned as far as possible with the common import licence forms provided for in Commission Regulation (EC) No 738/94[(5)], Commission Regulation (EC) No 3168/94[(6)], and Commission Regulation (EC) No 3169/94[(7)], bearing in mind the technical characteristics of the surveillance document.

(12) It is in the interests of the Union that the Member States and the Commission should make as full as possible an exchange of information resulting from Union surveillance.

(13) It is necessary to adopt precise criteria for assessing possible injury and to introduce an investigation while still allowing the Commission to introduce appropriate measures in urgent cases.

(14) To that end, detailed provisions should be laid down on the opening of investigations, on the checks and inspections required, on the hearing of those concerned, the treatment of information obtained and the criteria for assessing injury.

(15) The provisions on investigations laid down in this Regulation are without prejudice to Union or national rules concerning professional secrecy.

(16) It is also necessary to set time limits for the initiation of investigations and for determinations as to whether, or not, measures are appropriate, with a view to ensuring that such determinations are made quickly, in order to increase legal certainty for the economic operators concerned.

(17) In the interests of uniformity in rules for imports, the formalities to be carried out by importers should be simple and identical regardless of the place where the goods clear customs. It is therefore desirable to provide that any formalities should be carried out using forms corresponding to the specimen annexed to this Regulation.

(18) Surveillance documents issued in connection with Union surveillance measures should be valid throughout the Union, irrespective of the Member State of issue.

(19) The textile products falling under Council Regulation (EC) No 517/94[(8)] are subject to specific treatment at Union and international levels. They should therefore be completely excluded from the scope of this Regulation.

(20) The power to amend the list of third countries in Annex I to Regulation (EC) No 625/2009 was included in Council Regulation (EC) No 427/2003[9]. Since the provisions of Title I of Regulation (EC) No 427/2003 on the transitional product-specific safeguard mechanism expired on 11 December 2013 and the provisions of Title II of that Regulation are now obsolete, it is appropriate, in the interest of coherence, clarity and rationality, to incorporate Articles 14a and 14b of that Regulation into this Regulation. Regulation (EC) No 427/2003 should therefore be repealed.

(21) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) for the purpose of amending Annex I to this Regulation, in order to remove countries from the list of third countries contained in that Annex when they become members of the World Trade Organization (WTO).

(22) The implementation of this Regulation requires uniform conditions for adopting provisional and definitive safeguard measures, and for the imposition of prior surveillance measures. Those measures should be adopted by the Commission in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[10].

(23) The advisory procedure should be used for the adoption of surveillance and provisional measures given the effects of such measures and their sequential logic in relation to the adoption of definitive safeguard measures. Where a delay in the imposition of measures would cause damage which would be difficult to repair, it is necessary to allow the Commission to adopt immediately applicable provisional measures.

(24) When Regulation (EC) No 625/2009 was amended, the second subparagraph of Article 18(2) was erroneously deleted. That provision should be reinserted.

(25) As Armenia, Russia, Tajikistan and Vietnam have become members of the WTO, those third countries need to be deleted from Annex I to Regulation (EC) No 625/2009 by means of a Commission delegated act. In the interest of clarity and rationality, they are not included in the list of third countries now set out in Annex I to this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PRINCIPLES

Article 1

1 This Regulation applies to imports of products originating in the third countries referred to in Annex I, with the exception of textile products covered by Regulation (EC) No 517/94.

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

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/755 of the European Parliament and of the Council. (See end of Document for details)*

CHAPTER II

UNION INFORMATION AND CONSULTATION PROCEDURE

Article 2

The Commission shall be informed by the Member States if trends in imports appear to call for surveillance or safeguard measures. This information shall contain the available evidence on the basis of the criteria laid down in Article 6. The Commission shall pass on this information to all Member States forthwith.

CHAPTER III

UNION INVESTIGATION PROCEDURE

Article 3

1 Where it is apparent to the Commission that there is sufficient evidence to justify an investigation, the Commission shall initiate an investigation within one 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, 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.

Interested parties which have made themselves known in accordance with the first subparagraph of paragraph 1, as well as the representatives of the exporting country, may inspect all information made available to the Commission within the framework of the investigation, as distinct from internal documents prepared by the authorities of the Union or its Member States, provided that it is relevant to the defence of their interests and not confidential within the meaning of Article 5 and that it is used by the Commission in the investigation. To that end, they shall address a written request to the Commission indicating the information required.

3 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 The Commission may hear the interested parties. Such parties must be heard where they have applied in writing 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 investigations and that there are special reasons for them to be heard orally.

5 Where 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.

6 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 one month of the date of receipt of the information from the Member States.

Article 4

1 At the end of the investigation, the Commission shall submit a report on the results to the Committee referred to in Article 22(1) ('the Committee').

2 Where the Commission considers, within nine 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 22(2). A decision to terminate the investigation, stating the main conclusions of the investigation and a summary of the reasons therefore, shall be published in the *Official Journal of the European Union*.

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 nine months from the initiation of the investigation. In exceptional circumstances, that time limit may be extended by a further maximum period of two 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.

4 The provisions of this Chapter shall not preclude the taking, at any time, of surveillance measures in accordance with Articles 7 to 12 or, where a critical situation, in which any delay would cause injury which would be difficult to remedy, calls for immediate intervention, safeguard measures in accordance with Articles 13, 14 and 15.

The Commission shall immediately take the investigation measures it considers to be still necessary. The results of the investigation shall be used to re-examine the measures taken.

Article 5

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.