Commission Regulation (EC) No 117/2005 of 26 January 2005 introducing Community surveillance of imports of certain footwear products originating in certain third countries

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introducing Community surveillance of imports of certain footwear products originating in certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports and repealing Regulation (EC) No 518/94[(1)], and in particular Article 11(2) thereof,

Whereas:

(1) The quota system on footwear products set out in Council Regulation (EC) No 427/2003 of 3 March 2003 on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China and amending Regulation (EC) No 519/94 on common rules for imports from certain third countries[(2)] expired on 1 January 2005.

(2) On 7 December 2004, the Commission was informed by some Member States that it would be appropriate to impose surveillance measures on footwear products pursuant to Regulation (EC) No 3285/94.

(3) The Community footwear industry is largely composed of small and medium-sized enterprises, most of which are located in regions with few other sources of employment. It is therefore vulnerable to competition from low-priced imports originating in particular in the People's Republic of China.

(4) In response to this import competition, the Community footwear industry has, in recent years, undergone an extensive restructuring by concentrating its output on more up-market products which are also the products that have been under quota. These products represent approximately 85 % of production in the Community footwear industry. This restructuring has entailed a marked reduction of capacity and workforce. Despite these efforts, the Community footwear industry continues to lose production and market share owing to cheap foreign imports.

(5) Over the period 2000 to 2003, imports of footwear products originating in the People's Republic of China not subject to quotas increased sharply both in absolute terms as well as in terms of share of the Community market, with prices that were substantially lower than the prices of equivalent products manufactured in the Community. The average increase in imports was 59 % between 2000 and 2003 and the average difference in prices was 21 %.

(6) Given that prevailing market conditions for all footwear products are the same, it is expected that the recent liberalisation will lead to a similar substantial increase of imports. On the basis of recent trends in imports of footwear, the result of the 2005 removal of quotas could lead to a doubling in imports in the short term, with a likely consequent loss in market share for the Community industry of 6 % and a loss of 17 000 jobs. A threat of injury to Community producers for the purposes of Article 11 of Regulation (EC) No 3285/94 can therefore be deemed to exist.

(7) This likely impact is so significant that the interests of the Community require that imports of certain footwear products of Chinese origin should be subject to prior Community surveillance in order to provide statistical information permitting rapid analysis of import trends. The footwear concerned, mainly medium to high quality footwear, is that for which significant production still remains in the Community and can be considered sensitive for that reason. Prior surveillance by means of an automatic import licensing regime applicable until 31 January 2006 would provide the fastest means of obtaining a clear picture of the early effects of the removal of these quotas as any retrospective system takes time to provide meaningful data.

(8) It is also appropriate, in order to obtain an overall view of the trends in imports of footwear, to establish a retrospective customs-based surveillance system for imports of all footwear from all sources. This includes footwear requiring to be made subject to prior surveillance. When the retrospective system of surveillance is fully operational the prior surveillance can be terminated, at the latest by 31 January 2006.

(9) The completion of the internal market requires that the formalities to be accomplished by Community importers be identical wherever the goods may be cleared.

(10) In order to facilitate the collection of data, the release for free circulation of the products covered by prior surveillance should be made subject to presentation of a surveillance document meeting uniform criteria. That document should, on simple application by the importer, be endorsed by the authorities of the Member States within a certain period but without the importer thereby acquiring any right to import. The document should therefore be valid only as long as the import rules remain unchanged; it should be valid throughout the Community.

(11) In order to ensure transparency the Member States and the Commission should exchange the information resulting from Community surveillance as fully as possible.

(12) The issue of surveillance documents, while subject to standard conditions at Community level, should be the responsibility of the national authorities.

(13) It is desirable for this Regulation to enter into force on the day of its publication in order to collect the data as soon as possible,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

PRIOR SURVEILLANCE

Article 1

The release for free circulation in the Community of certain footwear products originating in the People's Republic of China listed in Annex I shall be subject to prior Community surveillance in accordance with Regulation (EC) No 3285/94.

Article 2

1 The release for free circulation in the Community of the products referred to in Article 1 shall be subject to presentation of a surveillance document issued by the relevant authorities of a Member State.

2 The surveillance document referred to in paragraph 1 shall be issued automatically by the competent authorities in the Member States, without charge and for any quantities requested, within five working days of presentation of an application by any Community importer, wherever it may be established in the Community. This application shall be deemed to have been received by the competent national authority no later than three working days after submission, unless it is proven otherwise.

3 A surveillance document issued by one of the authorities listed in Annex II shall be valid throughout the Community.

4 The surveillance document shall be made out on a form corresponding to the model set out in Annex I to Regulation (EC) No 3285/94.

The importer's application shall include the following elements:

a the name and full address of the applicant (including telephone and fax numbers, and possible identification number used by the competent national authorities) and VAT registration number, if subject to VAT;

b if applicable, the name and full address of the declarant or representative of the applicant (including telephone and fax numbers);

c the full name and address of the exporter;

d the exact description of the goods, including:

(i) their trade name;

(ii) the TARIC code(s);

(iii) the country of origin (namely the People's Republic of China);

(iv) the country of consignment;

e the quantity of goods expressed in pairs;

f the cif value of the goods in euro at the Community frontier by combined nomenclature heading;

g the proposed period and place of customs clearance;

h whether the application is a repeat of a previous application concerning the same contract;

i the following declaration, dated and signed by the applicant with the transcription of his name 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 Community'. The importer shall also submit a copy of the contract of sale or purchase and of the

pro forma invoice. If so requested, and in particular in cases where the goods are not directly purchased in China, the importer shall present a certificate of production issued by the producer.

5 The period of validity of the surveillance documents is hereby fixed at six months. Unused or partly used surveillance documents may be renewed for the same period.

6 The importer shall return surveillance documents to the issuing authority at the end of their period of validity.

7 The competent authorities may allow the submission of declarations or requests to be transmitted or printed by electronic means, under the conditions fixed by them. However, all documents and evidence shall be available to the competent authorities.

8 The surveillance document may be issued by electronic means, on condition that the customs offices involved have access to the document via a computer network.

Article 3

1 A finding that the unit price at which the transaction is effected varies from that indicated in the surveillance document by less than 5 % in either direction or that the total quantity of the products presented for import exceeds the quantity given in the surveillance document by less than 5 % shall not preclude the release for free circulation of the products in question.

2 Applications for surveillance documents and the documents themselves shall be confidential. Access to the information in those applications and documents shall be restricted to the competent authorities and the applicant.

Article 4

1 The Member States shall communicate the following information to the Commission:

a on as regular and up-to-date a basis as possible and at least by the last day of each month, details of the quantities and values, calculated in euro, for which surveillance documents have been issued;

b within six weeks of the end of each month, details of imports during that month, in accordance with Article 32 of Commission Regulation No (EC) 1917/2000[(3)].

The information provided by Member States shall be broken down by product and combined nomenclature (‘CN’) code.

2 The Member States shall give notification of any anomalies or cases of fraud which they discover and, where relevant, the basis on which they have refused to grant a surveillance document.

CHAPTER 2

RETROSPECTIVE SURVEILLANCE

Article 5

1 Footwear products listed in Annex III shall be subject to a system of retrospective statistical surveillance.

2 After the release for free circulation of the products, the competent authorities of the Member States shall notify the Commission, if possible on a weekly basis but no less frequently

than at the end of each month, of the total quantities imported (in pairs) and their value (value of the goods in euro at the Community frontier), indicating the combined nomenclature code and and using the units and, where appropriate, supplementary units used in that code. Imports shall be broken down in accordance with the statistical procedures in force.

CHAPTER 3

GENERAL PROVISIONS

Article 6

Any notices to be given under this Regulation shall be given to the Commission and shall be communicated electronically via the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

Article 7

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

The provisions of Chapter 1 shall apply from the 1 February 2005 until 31 January 2006, at the latest.

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

Done at Brussels, 26 January 2005.

For the Commission

Peter MANDELSON

Member of the Commission