Council Regulation (EC) No 2222/2004 of 19 November 2004 on administering imports of certain steel products from Ukraine (Text with EEA relevance)

COUNCIL REGULATION (EC) No 2222/2004

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on administering imports of certain steel products from Ukraine

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and Ukraine, of the other part[(1)], entered into force on 1 March 1998.

(2) Article 22(1) of the Partnership and Cooperation Agreement provides that trade in certain steel products shall be governed by Title III, save for Article 14 thereof, and by the provisions of an agreement.

(3) Such an Agreement on trade in certain steel products was concluded between the European Community and the Government of Ukraine on 22 November 2004[(2)].

(4) It is necessary to provide the means to administer this Agreement within the Community, taking into account the experience gained during the previous agreements.

(5) It is necessary to ensure that the origin of the products in question is checked and that appropriate methods of administrative cooperation are set up to this end.

(6) The effective application of the Agreement requires the introduction of a requirement for a Community import licence for the entry into free circulation in the Community of the products in question together with a system for administering the grant of such Community import licences.

(7) Products placed in a free zone or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system) should not be counted against the limits established for the products in question.

(8) In order to ensure that these quantitative limits are not exceeded, it is necessary to establish a management procedure whereby the competent authorities of the Member States will not issue import licences before obtaining prior confirmation from the Commission that appropriate amounts remain available within the quantitative limit in question.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 2222/2004. (See end of Document for details)*

(9) The Agreement provides for a system of cooperation between Ukraine and the Community with the aim of preventing circumvention by means of transhipment, rerouting or other means. A consultation procedure is established under which an agreement can be reached with the country concerned on an equivalent adjustment to the relevant quantitative limit when it appears that the Agreement has been circumvented. Ukraine has also agreed to take the necessary measures to ensure that any adjustments can be rapidly applied. In the absence of agreement with a supplier country within the time limit provided, the Community may, where clear evidence of circumvention is provided, apply the equivalent adjustment.

(10) As from 1 January 2004 imports of products covered by this Regulation have been subject to a licence in pursuance of Council Decision 2003/893/EC of 15 December 2003 on trade in certain steel products between the European Community and Ukraine[(3)]. The Agreement provides that those quantities are to be counted against the limits established for 2004 in this Regulation.

(11) The Agreement that this Regulation is implementing enters into force on the day of its publication in the *Official Journal of the European Union*. Therefore, this Regulation must enter into force on that same day,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

1 This Regulation applies to imports of steel products listed in Annex I, originating in Ukraine.

2 The steel products shall be classified in product groups as set out in Annex I.

3 The classification of products listed in Annex I shall be based on the combined nomenclature (CN) established by Council Regulation (EEC) No 2658/87[(4)]. The procedures for the application of this paragraph are laid down in Chapter II section 1.

4 The origin of the products referred to in paragraph 1 shall be determined in accordance with the rules in force in the Community.

5 The procedures for verification of the origin of the products referred to in paragraph 1 are laid down in Chapters II and III.

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 2222/2004. (See end of Document for details)*

Article 2

Quantitative limits

1 The importation into the Community of the steel products listed in Annex I originating in Ukraine shall be subject to the annual quantitative limits laid down in Annex V. The release for free circulation in the Community of the products listed in Annex I originating in Ukraine shall be subject to the presentation of an import authorisation issued by the Member States' authorities in accordance with the provisions of Article 4.

The authorised imports shall be counted against the quantitative limits laid down for the year in which the products are shipped in the exporting country.

2 In order to ensure that quantities for which import authorisations are issued do not at any time exceed the total quantitative limits for each product group, the competent authorities shall issue import authorisations only upon confirmation by the Commission that there are still quantities available within the quantitative limits for the relevant product group of steel products in respect of the supplier country, for which an importer or importers have submitted applications to the said authorities.

3 Imports of products as from 1 January 2004 for which a licence was required pursuant to Council Decision 2003/893/EC shall be counted against the relevant limits for 2004 laid down in Annex V.

4 For the purposes of this Regulation and as from the date of its application, shipment of products shall be considered as having taken place on the date on which they were loaded onto the exporting means of transport.

Article 3

Suspensive arrangements

1 The quantitative limits referred to in Annex V shall not apply to products placed in a free zone or free warehouse or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system).

2 Where the products referred to in paragraph 1 are subsequently released for free circulation, either in the unaltered state or after working or processing, Article 2(2) shall apply and the products so released shall be counted against the relevant quantitative limit set out in Annex V.

Article 4

Specific rules for the administration of Community quantitative limits

1 For the purpose of applying Article 2(2), before issuing import authorisations, the competent authorities of the Member States shall notify the Commission of the amounts of the requests for import authorisations, supported by original export licences, which they have received. By return, the Commission shall notify its confirmation that the requested amount(s) of quantities are available for importation in the chronological order in which the notifications of the Member States have been received (‘first come, first served basis’).

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2 The requests included in the notifications to the Commission shall be valid if they establish clearly in each case the exporting country, the product group concerned, the amounts to be imported, the number of the export licence, the quota year and the Member State in which the products are intended to be put into free circulation.

3 As far as possible, the Commission shall confirm to the authorities the full amount indicated in the requests notified for each product group of products. Moreover, the Commission shall contact the Ukrainian authorities immediately in cases where requests notified exceed the limits in order to seek clarification and a rapid solution.

4 The competent authorities shall notify the Commission immediately after being informed of any quantity that is not used during the duration of validity of the import authorisation. Such unused quantities shall automatically be transferred into the remaining quantities of the total Community quantitative limit for each product group.

5 The notifications referred to in paragraphs 1 to 4 above shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

6 The import authorisations or equivalent documents shall be issued in accordance with Chapter II.

7 The competent authorities of the Member States shall notify the Commission of any cancellation of import authorisations or equivalent documents already issued in cases where the corresponding export licences have been withdrawn or cancelled by the competent Ukrainian authorities. However, if the Commission or the competent authorities of a Member State have been informed by the competent Ukrainian authorities of the withdrawal or cancellation of an export licence after the related products have been imported into the Community, the quantities in question shall be set off against the quantitative limit for the year during which shipment of products took place.

Article 5

Statistics

1 Member States shall notify the Commission monthly, within one month of the end of each month, of the total quantities of the steel products listed in Annex I that have entered into free circulation during that month, indicating the combined nomenclature code and using the statistical units and, where appropriate, supplementary units used in that code. Imports shall be broken down in accordance with the statistical procedures in force.

2 In order to enable market trends in the products covered by this Regulation to be monitored, Member States shall communicate to the Commission, before 31 March of each year, statistical data on the imports of the preceding year.

Article 6

Circumvention

1 Where, following the enquiries carried out in accordance with the procedures set out in Chapter III, the Commission notes that the information in its possession constitutes proof that products listed in Annex I originating in Ukraine have been transhipped, rerouted or otherwise imported into the Community in circumvention of the quantitative limits referred to in Article 2 and that there is a need for the necessary adjustments to be made, it shall request

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that consultations be opened so that agreement may be reached on an equivalent adjustment of the corresponding quantitative limits.

2 Pending the outcome of the consultations referred to in paragraph 1, the Commission may ask Ukraine to take the necessary precautionary steps to ensure that adjustments to the quantitative limits agreed following such consultations may be carried out for the year in which the request for consultations was lodged or for the following year, if the quantitative limits for the current year are exhausted, where there is clear evidence of circumvention.

3 If the Community and Ukraine fail to arrive at a satisfactory solution and if the Commission notes that there is clear evidence of circumvention, it shall deduct from the quantitative limits an equivalent volume of products originating in Ukraine.

Article 7

This Regulation shall not constitute in any way a derogation from the provisions of the bilateral Agreement on trade in certain steel products[(5)] which the Community has concluded with Ukraine and which, in all cases of conflict, shall prevail.

CHAPTER II

MODALITIES APPLICABLE TO THE MANAGEMENT OF THE QUANTITATIVE-LIMITS

SECTION 1

Classification

Article 8

The classification of the steel products covered by this Regulation shall be based on the combined nomenclature (CN).

Article 9

On the initiative of the Commission or of a Member State, the tariff and statistical nomenclature section of the Customs Code Committee, which was established by Council Regulation (EEC) No 2658/87 shall examine urgently, in accordance with the provisions of the aforementioned Regulation, all questions concerning the classification of products covered by this Regulation within the combined nomenclature in order to classify them in the appropriate product groups.

Article 10

The Commission shall inform Ukraine of any changes in the combined nomenclature (CN) affecting products covered by this Regulation on their adoption by the competent authorities of the Community.

Article 11

The Commission shall inform the competent Ukrainian authorities of any decisions adopted in accordance with the procedures in force in the Community relating to classification of products covered by this Regulation, within one month at the latest of their adoption. Such communication shall include: