Regulation (EU) No 38/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures

REGULATION (EU) No 38/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 January 2014

amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures

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,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) A number of basic regulations relating to the common commercial policy provide that acts are to be adopted on the basis of the procedures set out in Council Decision 1999/468/EC[(2)].

(2) An examination of the legislative acts in force which were not adapted to the regulatory procedure with scrutiny before the entry into force of the Treaty of Lisbon is necessary in order to ensure consistency with the provisions introduced by that Treaty. It is appropriate, in certain cases, to amend such acts in order to grant delegated powers to the Commission pursuant to Article 290 of the Treaty on the Functioning of the European Union (TFEU). It is also appropriate, in some cases, to apply certain procedures set out in Regulation (EU) No 182/2011 of the European Parliament and of the Council[(3)].

(3) The following regulations should therefore be amended accordingly:

— Council Regulation (EEC) No 3030/93[(4)],

— Council Regulation (EC) No 517/94[(5)],

— Council Regulation (EC) No 953/2003[(6)],

— Council Regulation (EC) No 673/2005[(7)],

— Council Regulation (EC) No 1528/2007[(8)],

— Council Regulation (EC) No 55/2008[(9)],

— Council Regulation (EC) No 1340/2008[(10)].

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 38/2014 of the European Parliament and of the Council. (See end of Document for details)*

(4) In order to ensure legal certainty, the procedures for the adoption of measures which have been initiated but not completed before the entry into force of this Regulation should not be affected by this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

The Regulations listed in the Annex to this Regulation are hereby amended in accordance with the Annex.

Article 2

References to provisions of the Regulations listed in the Annex to this Regulation shall be construed as being made to those provisions as amended by this Regulation.

Article 3

This Regulation shall not affect procedures for the adoption of measures provided for in the Regulations listed in the Annex to this Regulation which have been initiated but not completed before the entry into force of this Regulation.

Article 4

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

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

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 38/2014 of the European Parliament and of the Council. (See end of Document for details)*

ANNEX

LIST OF REGULATIONS FALLING UNDER THE COMMON COMMERCIAL POLICY AND AMENDED IN ADAPTATION TO ARTICLE 290 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION OR TO THE APPLICABLE PROVISIONS OF REGULATION (EU) No 182/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

1. Regulation (EEC) No 3030/93

As regards Regulation (EEC) No 3030/93, in order to ensure the appropriate functioning of the system for the management of imports of certain textile products, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annexes to that Regulation, granting additional opportunities for imports, introducing or adapting quantitative limits and introducing safeguard measures and a surveillance system. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

In order to ensure uniform conditions for the implementation of Regulation (EEC) No 3030/93, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

The advisory procedure should be used for the initiation and conduct of the consultations.

Accordingly, Regulation (EEC) No 3030/93 is amended as follows:

(1) any reference to "Article 17" shall be understood as a reference to "Article 17(2)".

(2) Article 2(6) is replaced by the following:

"6 The Commission shall be empowered to adopt delegated acts in accordance with Article 16a in order to adapt the definition of quantitative limits laid down in Annex V and the categories of products to which they apply, where this proves necessary to ensure that any subsequent amendment to the Combined Nomenclature (CN) or any decision amending the classification of such products does not result in a reduction of such quantitative limits.".

(3) Article 6(2) is replaced by the following:

"2 The Commission shall be empowered to adopt delegated acts in accordance with Article 16a to amend the annexes by adjusting the quantitative limits therein so as to remedy the situation referred to in paragraph 1 of this Article, due respect being given to the terms and conditions contained in the relevant bilateral agreements.

Where a delay in the imposition of measures would cause damage due to the import into the Union of textiles products at abnormally low prices which would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first subparagraph.".

(4) Article 8 is amended as follows:

(a) the first paragraph is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 38/2014 of the European Parliament and of the Council. (See end of Document for details)*

"The Commission shall be empowered to adopt delegated acts in accordance with Article 16a to amend the annexes to grant additional opportunities for imports during a given quota year, where, under particular circumstances, imports over and above those referred to in Annex V are required in respect of one or more categories of products.

In an emergency, where a delay in granting additional opportunities for imports during a given quota year would cause damage because of an insufficient volume of imports which would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first paragraph. The Commission shall take a decision within 15 working days of a request from a Member State.";

(b) the penultimate paragraph is deleted.

(5) Article 10 is amended as follows:

(a) in paragraph 7, point (b) is deleted;

(b) paragraph 13 is replaced by the following:

"13 The Commission shall be empowered to adopt delegated acts to impose quantitative limits by amending the annexes in accordance with Article 16a concerning the measures provided for in paragraphs 3 and 9 of this Article.

In urgent cases, either on the Commission's own initiative or within 10 working days of a request from a Member State setting out the reasons for the urgency, and where a delay in the imposition of measures would cause damage which would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first subparagraph.".

(6) In Article 13(3), the second subparagraph is replaced by the following:

"The Commission shall decide to amend Annex III to introduce an a priori or an a posteriori surveillance system. The Commission shall be empowered to adopt delegated acts in accordance with Article 16a concerning the imposition of the a priori surveillance system.".

(7) In Article 15, paragraphs 3, 4 and 5 are replaced by the following:

"3 If the Union and the supplier country fail to arrive at a satisfactory solution within the period stipulated in Article 16, and if the Commission notes that there is clear evidence of circumvention, the Commission shall be empowered to adopt delegated acts in accordance with the procedure laid down in Article 16a to amend Annex V, to deduct from the quantitative limits an equivalent volume of products originating in the supplier country concerned.

Where the Commission notes that there is clear evidence of circumvention, and a delay in the imposition of measures addressing the circumvention would cause damage that would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first subparagraph.

4 In accordance with the provisions of the protocols and certain bilateral agreements concluded with third countries, where sufficient evidence shows that a false declaration concerning fibre content, quantities, description or classification of products originating in the countries concerned has occurred, the Union authorities may refuse to import the products in question. Furthermore, should it appear that the territory of any of these countries is involved in transhipment or re-routing of products not originating in that country, the Commission shall be empowered to adopt delegated acts in accordance with Article 16a to introduce quantitative limits against the same products originating in that same country, if they are not already subject to quantitative limits, or to counteract the situation referred to in this paragraph by amending Annex V.

Where the Commission notes that there is clear evidence of circumvention, and a delay in the imposition of measures addressing the circumvention would cause damage that would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first subparagraph.

5 In addition, where there is evidence of the involvement of the territories of third countries which are Members of the WTO but which are not listed in Annex V, the Commission shall request consultations with the third country or countries concerned in accordance with the procedure described in Article 16 in order to take appropriate action to address the problem. The Commission shall be empowered to adopt delegated acts in accordance with Article 16a to introduce quantitative limits against the third country or countries concerned or to counteract the situation referred to in this paragraph by amending Annex V.

Where a delay in the imposition of measures addressing the circumvention would cause damage that would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 16b shall apply to delegated acts adopted pursuant to the first subparagraph.".

(8) In Article 16(1), the introductory wording is replaced by the following:

"1 The Commission, after having provided the information to the Member States, shall conduct the consultations referred to in this Regulation in accordance with the following rules:".

(9) The following articles are inserted:

"Article 16a

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 2(6), Article 6(2), Article 8, Article 10(13), Article 13(3), Article 15(3), (4) and (5) and Article 19 of this Regulation and in Article 4(3) of Annex IV and Article 2 and Article 3(1) and (3) of Annex VII to this Regulation shall be conferred on the Commission for a period of five years from 20 February 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical