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COUNCIL REGULATION (EC) No 3285/94
of 22 December 1994
on the common rules for imports and repealing Regulation (EC) No 518/94

(OJ L 349, 31.12.1994, p. 53)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 139/96 of 22 January 1996	L 21	7	27.1.1996
►**M2**	Council Regulation (EC) No 2315/96 of 25 November 1996	L 314	1	4.12.1996
►**M3**	Council Regulation (EC) No 2474/2000 of 9 November 2000	L 286	1	11.11.2000
►**M4**	Council Regulation (EC) No 2200/2004 of 13 December 2004	L 374	1	22.12.2004

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COUNCIL REGULATION (EC) No 3285/94

of 22 December 1994

on the common rules for imports and repealing Regulation (EC) No 518/94

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the instruments establishing the common organization of agricultural markets and the instruments concerning processed agricultural products, in particular in so far as they provide for derogation from the general principle that quantitative restrictions or measures having equivalent effect may be replaced solely by the measures provided for in the said instruments,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament, ([1])

Whereas the common commercial policy should be based on uniform principles; whereas Council Regulation (EC) No 518/94 of 7 March 1994 on common rules for imports and repealing Regulation (EEC) No 288/82 ([2])is an important part of the policy;

Whereas due account was taken when Regulation (EC) No 518/94 was adopted from the Community's international obligations, particularly those deriving from Article XIX of the General Agreement on Tariffs and Trade (GATT);

Whereas the completion of the Uruguay Round has led to the foundation of the World Trade Organization (WTO); whereas Annex 1A to the Agreement establishing the WTO contains *inter alia* the General Agreement on Tariffs and Trade 1994 (GATT 1994) and an Agreement on Safeguards;

Whereas the Agreement on Safeguard meets the need to clarify and reinforce the disciplines of GATT 1994, and specifically those of Article XIX; whereas that Agreement requires the elimination of safeguard measures which escape those rules, such as voluntary export restraints, orderly marketing arrangements and any other similar import or export arrangements;

Whereas the Agreement on Safeguards also covers ECSC products; whereas the common rules for imports, especially as regards safeguard measures, therefore also applies to those products without prejudice to any possible measures to apply an agreement specifically concerning ECSC products;

Whereas in the light of these new multilateral rules the common rules for imports should be made clearer and if necessary amended, particularly where the application of safeguard measures is concerned;

Whereas the starting point for the common rules for imports is liberalization of imports, namely the absence of any quantitative restrictions;

Whereas the Commission should be informed by the Member States of any danger created by trends in imports which might call for Community surveillance or the application of safeguard measures;

Whereas in such instances the Commission should examine the terms and conditions under which imports occur, the trend in imports, the various aspects of the economic and trade situations and, where appropriate, the measures to be applied;

Whereas if Community surveillance is applied, release for free circulation of the products concerned should be made subject to presen-

([1]) Opinion delivered on 14 December 1994 (not yet published in the Official Journal).

([2]) OJ No L 67, 10. 3. 1994, p. 77.

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tation of an import document meeting uniform criteria; whereas 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; whereas the document should therefore be valid only during such period as the import rules remain unchanged;

Whereas the Member States and the Commission should exchange the information resulting from Community surveillance as fully as possible;

Whereas it falls to the Commission and the Council to adopt the safeguard measures required by the interests of the Community; whereas those interests should be considered as a whole and should in particular encompass the interest of Community producers, users and consumers;

Whereas safeguard measures against a Member of the WTO may be considered only if the product in question is imported into the Community in such greatly increased quantities and on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers of like or directly competing products, unless international obligations permit derogation from this rule;

Whereas the terms ‘serious injury’, ‘threat of serious injury’ and ‘Community producers’ should be defined and more precise criteria for determining injury be established;

Whereas an investigation must precede the application of any safeguard measure, subject to the reservation that the Commission be allowed in urgent cases to apply provisional measures;

Whereas there should be more detailed provisions on the opening of investigations, the checks and inspections required, access by exporter countries and interested parties to the information gathered, hearings for the parties involved and the opportunities for those parties to submit their views;

Whereas the provisions on investigations introduced by this Regulation are without prejudice to Community or national rules concerning professional secrecy;

Whereas 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;

Whereas in cases in which safeguard measures take the form of a quota the level of the latter should be set in principle no lower than the average level of imports over a representative period of at least three years;

Whereas in cases in which a quota is allocated among supplier countries each country's quota may be determined by agreement with the countries themselves or by taking as a reference the level of imports over a representative period; whereas derogations from these rules should nevertheless be possible where there is serious injury and a disproportionate increase in imports, provided that due consultation under the auspices of the WTO Committee on Safeguards takes place;

Whereas the maximum duration of safeguard measures should be determined and specific provisions regarding extension, progressive liberalization and reviews of such measures be laid down;

Whereas the circumstances in which products originating in a developing country Member of the WTO should be exempt from safeguard measures should be established;

Whereas surveillance or safeguard measures confined to one or more regions of the Community may prove more suitable than measures applying to the whole Community; whereas, however, such measures should be authorized only exceptionally and where no alternative exists; whereas it is necessary to ensure that such measures are

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temporary and cause the minimum of disruption to the operation of the internal market;

Whereas in the interests of uniformity in rules for imports, the formalities to be carried out by importers should be simplified and made identical regardless of the place where the goods clear customs; whereas it is therefore desirable to provide that any formalities should be carried out using forms corresponding to the specimen annexed to the Regulation;

Whereas import documents issued in connection with Community surveillance measures should be valid throughout the Community irrespective of the Member State of issue;

Whereas the textile products covered by Council Regulation (EC) No 517/94 of 7 March 1994 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules [1]are subject to special treatment at Community and international level, except for the products listed in Annex II which are integrated into GATT 1994; whereas they should therefore be excluded from the scope of this Regulation;

Whereas the provisions of this Regulation are applicable without prejudice to Articles 77, 81, 244, 249 and 280 of the Act of Accession of Spain and Portugal;

Whereas national restrictions with respect to products falling under the ECSC Treaty will be progressively dismantled in accordance with the provisions of the WTO;

Whereas Regulation (EC) No 518/94 should consequently be repealed,

HAS ADOPTED THIS REGULATION

TITLE I

General principles

Article 1

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1. This Regulation applies to imports of products originating in third countries, except for:

(a) textile products subject to specific import rules under Council Regulation (EC) No 517/94,

(b) the products originating in certain third countries listed in Council Regulation (EC) No 519/94 on common rules for imports of certain third countries.

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2. The products referred to in paragraph 1 shall be freely imported into the Community and accordingly, without prejudice to the safeguard measures which may be taken under Title V, shall not be subject to any quantitative restrictions.

TITLE II

Community information and consultation procedure

Article 2

The Commission shall be informed by the Member States should trends in imports appear to call for surveillance or safeguard measures. This information shall contain the evidence available, as determined on the basis of the criteria laid down in Article 10. The Commission shall immediately pass this information on to all the Member States.

[1] OJ No L 67, 10. 3. 1994, p. 1.

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Article 3

Consultations may be held either at the request of a Member State or on the initiative of the Commission. They shall take place within eight working days of the Commission receiving the information provided for in Article 2 and, in any event, before the introduction of any Community surveillance or safeguard measure.

Article 4

1. Consultation shall take place within an Advisory Committee, hereinafter called 'the Committee', made up of representatives of each Member State with a representative of the Commission as chairman.

2. The Committee shall meet when convened by its chairman. He shall provide the Member States with all relevant information as promptly as possible.

3. Consultations shall cover in particular:

— terms and conditions of import, import trends and the various aspects of the economic and commercial situation with regard to the product in question,

— the measures, if any, to be taken.

4. Consultations may be conducted in writing if necessary. The Commission shall in this event inform the Member States, which may express their opinion or request oral consultations within a period of five to eight working days, to be decided by the Commission.

TITLE III

Community investigation procedure

Article 5

1. Without prejudice to Article 8, the Community investigation procedure shall be implemented before any safeguard measure is applied.

2. Using as a basis the factors described in Article 10, the investigation shall seek to determine whether imports of the product in question are causing or threatening to cause serious injury to the Community producers concerned.

3. The following definitions shall apply:

(a) 'serious injury' means a significant overall impairment in the position of Community producers,

(b) 'threat of serious injury' means serious injury that is clearly imminent;

(c) 'Community producers' means the producers as a whole of the like or directly competing products operating within the territory of the Community, or those whose collective output of the like or directly competing products constitutes a major proportion of the total Community production of those products.

Article 6

1. Where after consultations referred to in Article 3, it is apparent to the Commission that there is sufficient evidence to justify the initiation of an investigation, the Commission shall:

(a) initiate an investigation within one month of receipt of information from a Member State and publish a notice in the *Official Journal of the European Communities*; such notice shall give a summary of the information received, and stipulate that all relevant information is to be communicated to the Commission; it shall 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; it shall also state the period

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within which interested parties may apply to be heard orally by the Commission in accordance with paragraph 4;

(b) commence the investigation, acting in cooperation with the Member States.

2. The Commission shall seek all information it deems to be necessary and, where it considers it appropriate, after consulting the Committee, endeavour to check this information with importers, traders, agents, producers, trade associations and organizations.

The Commission shall be assisted in this task by staff of the Member State on whose territory these checks are being carried out, provided that Member State so wishes.

Interested parties which have come forward pursuant to paragraph 1 (a) and representatives of the exporting country may, upon written request, inspect all information made available to the Commission in connection with the investigation other than internal documents prepared by the authorities of the Community or its Member States, provided that that information is relevant to the presentation of their case and not confidential within the meaning of Article 9 and that it is used by the Commission in the investigation.

Interested parties which have come forward may communicate their views on the information in question to the Commission; those views may be taken into consideration where they are backed by sufficient evidence.

3. The 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 made a written application within the period laid down in the notice published in the *Official Journal of the European Communities*, showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

5. When 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 the information and may make use of facts available.

6. Where it appears to the Commission, after the consultation referred to in Article 3, that there is insufficient evidence to justify an investigation, it shall inform the Member States of its decision within one month of receipt of the information from the Member States.

Article 7

1. At the end of the investigation, the Commission shall submit a report on the results to the Committee.

2. Where the Commission considers, within nine months of the initiation of the investigation, that no Community surveillance or safeguard measures are necessary, the investigation shall be terminated within a month, the Committee having first been consulted. The decision to terminate the investigation, stating the main conclusions of the investigation and a summary of the reasons therefor, shall be published in the *Official Journal of the European Communities*.

3. If the Commission considers that Community surveillance or safeguard measures are necessary, it shall take the necessary decisions in accordance with Titles IV and V, no later than nine months from the initiation of the investigation. In exceptional circumstances, this 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*

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the European Communities setting forth the duration of the extension and a summary of the reasons therefor.

Article 8

1. The provisions of this Title shall not preclude the use, at any time, of surveillance measures in accordance with Articles 11 to 15 or provisional safeguard measures in accordance with Articles 16, 17 and 18.

Provisional safeguard measures shall be applied:

— in critical circumstances where delay would cause damage which would be difficult to repair, making immediate action necessary, and

— where a preliminary determination provides clear evidence that increased imports have caused or are threatening to cause serious injury.

2. The duration of such measures shall not exceed 200 days.

3. Provisional safeguard measures should take the form of an increase in the existing level of customs duty (whether the latter is zero or higher) if such action is likely to prevent or repair the serious injury.

4. The Commission shall immediately conduct whatever investigation measures are still necessary.

5. Should the provisional safeguard measures be repealed because no serious injury or threat of serious injury exists, the customs duties collected as a result of the provisional measures shall be automatically refunded as soon as possible. The procedure laid down in Article 235 *et seq* of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([1]) shall apply.

Article 9

1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

2. (a) Neither the Council, nor the Commission, nor the Member States, nor the officials of any of these shall 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.

(b) Each request for confidentiality shall state the reasons why the information is confidential.

However, if it appears that a request for confidentiality is unjustified and if the supplier of the information wishes neither to make it public nor to authorize its disclosure in general terms or in the form of a summary, the information concerned may be disregarded.

3. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

4. The preceding paragraphs shall not preclude reference by the Community authorities to general information and in particular to reasons on which decisions taken pursuant to this Regulation are based. The said authorities shall, however, take into account the legitimate interest of legal and natural persons concerned that their business secrets should not be divulged.

([1]) OJ No L 302, 19. 10. 1992, p. 1.

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Article 10

1. Examination of the trend of imports, of the conditions in which they take place and of serious injury or threat of serious injury to Community producers resulting from such imports shall cover in particular the following factors:

(a) the volume of imports, in particular where there has been a significant increase, either in absolute terms or relative to production or consumption in the Community;

(b) the price of imports, in particular where there has been a significant price undercutting as compared with the price of a like product in the Community;

(c) the consequent impact on Community producers as indicated by trends in certain economic factors such as:

— production,

— capacity utilization,

— stocks,

— sales,

— market share,

— prices (i. e. depression of prices or prevention of price increases which would normally have occurred),

— profits,

— return on capital employed,

— cash flow,

— employment;

(d) factors other than trends in imports which are causing or may have caused injury to the Community producers concerned.

2. Where a threat of serious injury is alleged, the Commission shall also examine whether it is clearly foreseeable that a particular situation is likely to develop into actual injury. In this regard account may be taken of factors such as:

(a) the rate of increase of the exports to the Community;

(b) export capacity in the country of origin or export, as it stands or is likely to be in the foreseeable future, and the likelihood that that capacity will be used to export to the Community.

TITLE IV

Surveillance

Article 11

1. Where the trend in imports of a product originating in a third country covered by this Regulation threatens to cause injury to Community producers, and where the interests of the Community so require, import of that product may be subject, as appropriate, to:

(a) retrospective Community surveillance carried out in accordance with the provisions laid down in the decision referred to in paragraph 2,

(b) prior Community surveillance carried out in accordance with Article 12.

2. The decision to impose surveillance shall be taken by the Commission according to the procedure laid down in Article 16 (7) and (8).

3. The surveillance measures shall have a limited period of validity. Unless otherwise provided, they shall cease to be valid at the end of the second six-month period following the six months in which the measures were introduced.

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Article 12

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1. Products under prior Community surveillance may be put into free circulation only on production of a surveillance document. Such document shall be issued by the competent authority designated by Member States, free of charge, for any quantity requested and within a maximum of five working days of receipt by the national competent authority of an application by any Community importer, regardless of his place of business in the Community. This application shall be deemed to have been received by the national competent authority no later than three working days after submission, unless it is proved otherwise.

2. The surveillance document shall be made out on a form corresponding to the model in Annex I.

Except where the decision to impose surveillance provides otherwise, the importer's application for surveillance documents shall contain only the following:

(a) the full name and address of the applicant (including telephone and fax numbers and any number identifying the applicant to the competent national authority), plus the applicant's VAT registration number if he is liable for VAT;

(b) where appropriate, the full name and address of the declarant or of any representative appointed by the applicant (including telephone and fax numbers);

(c) a description of the goods giving:

— their trade name,

— their combined nomenclature code,

— their place of origin and place of consignment;

(d) the quantity declared, in kilograms and, where appropriate, any other additional unit (pairs, items, etc.);

(e) the value of the goods, cif at Community frontier, in ecus;

(f) the statement below, dated and signed by the applicant, with the applicant's name spelt out 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.'

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3. The import document shall be valid throughout the Community, regardless of the Member State of issue.

4. A finding that the unit price at which the transaction is effected exceeds that indicated in the import document by less than 5 % or that the total value or quantity of the products presented for import exceeds the value or quantity given in the import document by less than 5 % shall not preclude the release for free circulation of the product in question. The Commission, having heard the opinions expressed in the Committee and taking account of the nature of the products and other special features of the transactions concerned, may fix a different percentage, which, however, should not normally exceed 10 %.

5. Import documents may be used only for such time as arrangements for liberalization of imports remain in force in respect of the transactions concerned. Such import documents may not in any event be used beyond the expiry of a period which shall be laid down at the same time and by means of the same procedure as the imposition of surveillance, and shall take account of the nature of the products and other special features of the transactions.

6. Where the decision taken pursuant to Article 11 so requires, the origin of products under Community surveillance must be proved by a certificate of origin. This paragraph shall not affect other provisions concerning the production of any such certificate.

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7. Where the product under prior Community surveillance is subject to regional safeguard measures in a Member State, the import authorization granted by that Member State may replace the import document.

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8. Surveillance document forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1, to be issued to the applicant, and the other, marked 'Copy for the competent authority' and bearing the number 2, to be kept by the authority issuing the document. For administrative purposes the competent authority may add supplementary copies to form 2.

9. Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 grams per square metre. Their size shall be 210 x 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the surveillance document itself, shall in addition have a yellow printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

10. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified.

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Article 13

Where import of a product has not been made subject to prior Community surveillance within eight working days of the end of consultations, the Commission, in accordance with Article 18, may introduce surveillance confined to imports into one or more regions of the Community.

Article 14

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1. Products under regional surveillance may be put into free circulation in the region concerned only on production of a surveillance document. Such document shall be issued by the competent authority designated by the Member State(s) concerned, free of charge, for any quantity requested and within a maximum of five working days of receipt by the national competent authority of an application by any Community importer, regardless of his place of business in the Community. This application shall be deemed to have been received by the national competent authority no later than three working days after submission, unless it is proved otherwise. Surveillance documents may be used only for such time as arrangements for imports remain liberalized in respect of the transactions concerned.

2. Article 12 (2) shall apply.

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Article 15

1. Member States shall communicate to the Commission within the first 10 days of each month in the case of Community or regional surveillance:

(a) in the case of prior surveillance, details of the sums of money (calculated on the basis of cif prices) and quantities of goods in respect of which import documents were issued or endorsed during the preceding period;

(b) in every case, details of imports during the period preceding the period referred to in subparagraph (a).

The information supplied by Member States shall be broken down by product and by country.

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Different provisions may be laid down at the same time and by the same procedure as the surveillance arrangements.

2. Where the nature of the products or special circumstances so require, the Commission may, at the request of a Member State or on its own initiative, amend the timetables for submitting this information.

3. The Commmission shall inform the Member States accordingly.

TITLE V

Safeguard measures

Article 16

1. Where a product is imported into the Community in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers, the Commission, in order to safeguard the interests of the Community, may, acting at the request of a Member State or on its own initiative:

(a) limit the period of validity of import documents within the meaning of Article 12 to be endorsed 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 authorization, 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 (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. (a) If establishing a quota, account shall be taken in particular of:

— the desirability of maintaining, as far as possible, traditional trade flows,

— 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 Title, where such contracts have been notified to the Commission by the Member State concerned,

— the need to avoid jeopardizing achievement of the aim pursued in establishing the quota.

(b) Any quota shall not be set lower than the average level of imports over the last three representative years for which statistics are available unless a different level is necessary to prevent or remedy serious injury.

4. (a) 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 Community.

Failing this, the quota shall be allocated among the supplier countries in proportion to their share of imports into the Community 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.

(b) Provided that its obligation to see that consultations are conducted under the auspices of the WTO Committee on Safeguards is not disregarded, the Community may nevertheless depart from this method of allocation in case of serious injury if imports originating in one or more supplier countries have increased in disproportionate percentage in relation to the total

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increase of imports of the product concerned over a previous representative period.

5. (a) 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 18 they may be confined to one or more regions of the Community.

(b) However, such measures shall not prevent the release for free circulation of products already on their way to the Community provided that the destination of such products cannot be changed and that those products which, pursuant to Articles 11 and 12, may be put into free circulation only in production of an import document are in fact accompanied by such a document.

6. Where intervention by the Commission has been requested by a Member State, the Commission shall take a decision within a maximum of five working days of receipt of such a request.

7. Any decision taken by the Commission pursuant to this Article shall be communicated to the Council and to the Member States. Any Member State may, within one month following the day of such communication, refer the decision to the Council.

8. If a Member State refers the Commission's decision to the Council, the Council, acting by a qualified majority, may confirm, amend or revoke that decision.

If, within three months of the referral of the matter to the Council, the Council has not taken a decision, the decision taken by the Commission shall be deemed revoked.

Article 17

Where the interests of the Community so require, the Council, acting by a qualified majority on a proposal from the Commission drawn up in accordance with the terms of Title III, may adopt appropriate measures to prevent a product being imported into the Community in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Community producers of like or directly competing products.

Article 16 (2), (3), (4) and (5) shall apply.

Article 18

Where it emerges, primarily on the basis of the factors referred to in Article 10, that the conditions laid down for the adoption of measures pursuant to Articles 11 and 16 are met in one or more regions of the Community, the Commission, after having examined alternative solutions, may exceptionally authorize 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 Community.

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 11 and 16 respectively.

Article 19

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 Community imports of the product concerned does not exceed 3 %, provided that developing country Members with less than a 3 % import share collectively account for not more than 9 % of total Community imports of the product concerned.

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Article 20

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 Community producers. The period should not exceed four 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 Article 16 (4) (b), provided it is determined that:

— the safeguard measure continues to be necessary to prevent or remedy serious injury,

— and there is evidence that Community producers are adjusting.

3. Extensions shall be adopted in accordance with the terms of Title III and using the same producers 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 one year, the measure must be progressively liberalized 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 eight years.

Article 21

1. While any surveillance or safeguard measure applied in accordance with Titles IV and V is in operation, consultations shall be held within the Committee, either at the request of a Member State or on the initiative of the Commission. If the duration of a safeguard measure exceeds three years, the Commission shall seek such consultations no later than the mid-point of the period of application of that measure. The purpose of such consultations shall be:

(a) to examine the effects of the measure;

(b) to determine whether and in what manner it is appropriate to accelerate the pace of liberalization;

(c) to ascertain whether its application is still necessary.

2. Where, as a result of the consultations referred to in paragraph 1, the Commission considers that any surveillance or safeguard measure referred to in Articles 11, 13, 16, 17 and 18 should be revoked or amended, it shall proceed as follows:

(a) where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;

(b) in all other cases, the Commission shall amend or revoke Community safeguard and surveillance measures.

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 Communities*.

Article 22

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 two years.

2. Notwithstanding paragraph 1, a safeguard measure of 180 days or less may be reimposed for a product if:

(a) at least one year has elapsed since the date of introduction of a safeguard measure on the import of that product; and

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(b) such a safeguard measure has not been applied to the same product more than twice in the five-year period immediately preceding the date of introduction of the measure.

TITLE VI

Final provisions

Article 23

Where the interests of the Community so require, the Council, acting by a qualified majority on a proposal from the Commission, may adopt appropriate measures to allow the rights and obligations of the Community or of all its Member States, in particular those relating to trade in commodities, to be exercised and fulfilled at international level.

Article 24

1. This Regulation shall not preclude the fulfilment of obligations arising from special rules contained in agreements concluded between the Community and third countries.

2. (a) Without prejudice to other Community provisions, this Regulation shall not preclude the adoption or application by Member States:

(i) of prohibitions, quantitative restrictions or surveillance measures on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial and commercial property;

(ii) of special formalities concerning foreign exchange;

(iii) of formalities introduced pursuant to international agreements in accordance with the Treaty.

(b) The Member States shall inform the Commission of the measures or formalities they intend to introduce or amend in accordance with this paragraph. In the event of extreme urgency, the national measures or formalities in question shall be communicated to the Commission immediately upon their adoption.

Article 25

1. This Regulation shall be without prejudice to the operation of the instruments establishing the common organization of agricultural markets or of Community or national administrative provisions derived therefrom or of the specific instruments applicable to goods resulting from the processing of agricultural products; it shall operate by way of complement to those instruments.

2. However, in the case of products covered by the instruments referred to in paragraph 1, Articles 11 to 15 and 22 shall not apply to those in respect of which the Community rules on trade with third countries require the production of a licence or other import document.

Articles 16, 18 and 21 to 24 shall not apply to those products in respect of which such rules provide for the application of quantitative import restrictions.

Article 26

1. Residual national restrictions relating to products covered by the ECSC Treaty shall be progressively dismantled in accordance with the provisions of the WTO.

2. Until 31 December 1995, Spain and Portugal may maintain the quantitative restrictions on agricultural products referred to in Articles 77, 81, 244, 249 and 280 of the Act of Accession.

▼B

Article 27

Regulation (EC) No 518/94 is hereby repealed. References to the repealed Regulation shall be understood as referring to this Regulation.

Article 28

This Regulation shall enter into force on 1 January 1995.

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

▼M1

ANNEXE I

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

1	**1. Consignee** *(name, full address, country, VAT number)*	**2. Issue number**
		3. Proposed place and date of import
		4. Authority responsible for issue *(name, address and telephone No)*
Holder's copy	**5. Declarant/representative as applicable** *(name and full address)*	**6. Country of origin** *(and geonomenclature code)*
		7. Country of consignment *(and geonomenclature code)*
		8. Last day of validity
1		

9. Description of goods	**10. CN code and category**
	11. Quantity in kilograms (net mass) or in additional units
	12. Value in ecus, cif at Community frontier

13. Additional remarks

14. Competent authority's endorsement

Date: .....

Signature: ..... Stamp

▼M1

15. ATTRIBUTIONS Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.			
16. Net quantity (net mass or other unit of measure stating the unit)		**19. Customs document** (form and number) **or extract No and date of attribution**	**20. Name, Member State, stamp and signature of the attributing authority**
17. In figures	**18. In words for the quantity attributed**		
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
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2			
1			
2			

Extension pages to be attached hereto.

▼M1

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

2

Copy for the competent authority

1. Consignee *(name, full address, country, VAT number)*	**2. Issue number**
	3. Proposed place and date of import
	4. Authority responsible for issue *(name, address and telephone No)*
5. Declarant/representative as applicable *(name and full address)*	**6. Country of origin** *(and geonomenclature code)*
	7. Country of consignment *(and geonomenclature code)*
	8. Last day of validity

2

9. Description of goods	**10. CN code and category**
	11. Quantity in kilograms (net mass) or in additional units
	12. Value in ecus, cif at Community frontier

13. Additional remarks

14. Competent authority's endorsement

Date: .....

Signature: ..... Stamp

▼M1

15. ATTRIBUTIONS Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.			
16. Net quantity (net mass or other unit of measure stating the unit)		**19. Customs document** (form and number) **or extract No and date of attribution**	**20. Name, Member State, stamp and signature of the attributing authority**
17. In figures	**18. In words for the quantity attributed**		
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Extension pages to be attached hereto.

▼M4