COMMISSION REGULATION (EC) No 117/2005

of 26 January 2005

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.

[1] OJ L 349, 31.12.1994, p. 53. Regulation as last amended by Regulation (EC) No 2474/2000 (OJ L 286, 11.11.2000, p. 1).

[2] OJ L 65, 8.3.2003, p. 1. Regulation as amended by Regulation (EC) No 1985/2003 (OJ L 295, 13.11.2003, p. 43).

(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 [1].

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.

[1] OJ L 229, 9.9.2000, p. 4. Regulation as amended by Regulation (EC) No 1669/2001 (OJ L 224, 21.8.2001, p. 3).

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

ANNEX I

LIST OF PRODUCTS SUBJECT TO PRIOR SURVEILLANCE (2005)

6402 99
6403 51
6403 59
6403 91
6403 99

6404 19 10

with the exception of
6402 99 10 10
6402 99 91 10
6402 99 93 10
6402 99 96 10
6402 99 98 11
6403 91 11 10
6403 91 13 10
6403 91 16 10
6403 91 18 10
6403 91 91 10
6403 91 93 10
6403 91 96 10
6403 91 98 10
6403 99 91 10
6403 99 93 11 + 19
6403 99 96 11 + 19

6403 99 98 11 + 19

ANNEX II

LIST OF THE COMPETENT NATIONAL AUTHORITIES

BELGIQUE/BELGIË

Service public fédéral de l'économie, des PME, des classes moyennes et de l'énergie
Administration du potentiel économique
Politiques d'accès aux marchés, Services «Licences»
Rue Général Leman 60
B-1040 Bruxelles
Télécopieur (32-2) 230 83 22

Federale Overheidsdienst Economie, KMO, Middenstand & Energie
Bestuur Economisch Potentieel
Markttoegangsbeleid, Dienst Vergunningen
Generaal Lemanstraat 60
B-1040 Brussel
Fax: (32-2) 230 83 22

ČESKÁ REPUBLIKA

Ministerstvo průmyslu a obchodu
Licenční správa
Na Františku 32
CZ-110 15 Praha 1
Fax: +420 224 21 21 33

DANMARK

Erhvervs- og Boligstyrelsen
Økonomi- og Erhvervsministeriet
Vejlsøvej 29
DK-8600 Silkeborg
Fax (45) 35 46 64 01

DEUTSCHLAND

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29—35
D-65760 Eschborn 1
Fax: +49-61-969 42 26

EESTI

Majandus- ja Kommunikatsiooniministeerium
Harju 11
EE-15072 Tallinn
Fax: +372-631 3660

ΕΛΛΑΔΑ

Υπουργείο Οικονομίας και Οικονομικών
Διεύθυνση Διεθνών Οικονομικών Ροών
Κορνάρου 1
GR-105 63 Αθήνα
Φαξ: (30-210) 32 86 094

ESPAÑA

Ministerio de Economía
Secretaría General de Comercio Exterior
Subdirección General de Productos Industriales
Paseo de la Castellana 162
E-28046 Madrid
Fax: (34) 913 49 38 31

FRANCE

Ministère de l'économie, des finances et de l'industrie
DIGITIP
Sous-direction «Textile — Habillement — Cuir»
Bureau «Textile-Importations»
Le Bervil
12, rue Villiot
F-75572 Paris Cedex 12
Télécopieur (33-1) 53 44 91 81

IRELAND

Department of Enterprise, Trade and Employment
Import/Export Licensing, Block C
Earlsfort Centre
Hatch Street
Dublin 2
Ireland
Fax: (353-1) 631 25 62

ITALIA

Ministero delle Attività produttive
Direzione generale per la Politica commerciale e per la gestione del regime degli scambi
Viale America 341
I-00144 Roma
Fax (39-06) 59 93 22 35/59 93 26 36

ΚΥΠΡΟΣ

Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού
Υπηρεσία Εμπορίου
Μονάδα Έκδοσης Αδειών Εισαγωγής/Εξαγωγής
Οδός Ανδρέα Αραούζου 6
CY-1421 Λευκωσία
Φαξ: (357-22) 37 51 20

LATVIJA

Latvijas Republikas Ekonomikas ministrija
Brīvības iela 55
LV-1519 Rīga
Fax: +371-728 08 82

LIETUVA

Lietuvos Respublikos ūkio ministerija
Prekybos departamentas
Gedimino pr. 38/2
LT-01104 Vilnius
Fax: (370-5) 26 23 974

LUXEMBOURG

Ministère des affaires étrangères
Office des licences
BP 113
L-2011 Luxembourg
Télécopieur (352) 46 61 38

MAGYARORSZÁG

Magyar Kereskedelmi Engedélyezési Hivatal
Margit krt. 85.
H-1024 Budapest
Fax: (36-1) 336 73 02

MALTA

Diviżjoni għall-Kummerċ
Servizzi Kummerċjali
Lascaris
MT-Valletta CMR02
Fax: +356 2569 0299

NEDERLAND

Belastingdienst/Douane centrale dienst voor in- en uitvoer
Postbus 30003, Engelse Kamp 2
9700 RD Groningen
Nederland
Fax: (31-50) 523 23 41

ÖSTERREICH

Bundesministerium für Wirtschaft und Arbeit
Außenwirtschaftsadministration
Abteilung C2/2
Stubenring 1
A-1011 Wien
Fax: +43-1-711 00/83 86

POLSKA

Ministerstwo Gospodarki, Pracy i Polityki Społecznej
pl. Trzech Krzyży 3/5
PL-00-507 Warszawa
Fax: (48-22) 693 40 21/693 40 22

PORTUGAL

Ministério das Finanças
Direcção-Geral das Alfândegas e dos Impostos
Especiais sobre o Consumo
Rua Terreiro do Trigo
Edifício da Alfândega de Lisboa
P-1140-060 Lisboa
Fax: (351-21) 881 42 61

SLOVENIJA

Ministrstvo za gospodarstvo
Področje za ekonomske odnose s tujino
Kotnikova 5
SI-1000 Ljubljana
Fax: (386-1) 478 36 11

SLOVENSKÁ REPUBLIKA

Ministerstvo hospodárstva SR
Odbor licencií
Mierová 19
SK-827 15 Bratislava 212
Fax: (421-2) 43 42 39 19

SUOMI/FINLAND

Tullihallitus
PL 512
FI-00101 Helsinki
Fax: (358-20) 492 28 52

Tullstyrelsen
PB 512
FI-00101 Helsingfors
Fax: (358-20) 492 28 52

SVERIGE

Kommerskollegium
Box 6803
S-113 86 Stockholm
Fax: (46-8) 30 67 59

UNITED KINGDOM

Department of Trade and Industry
Import Licensing Branch
Queensway House — West Precinct
Billingham TS23 2NF
United Kingdom
Fax: (44-1642) 36 42 69

ANNEX III

LIST OF PRODUCTS SUBJECT TO RETROSPECTIVE SURVEILLANCE

6401 91
6401 92
6401 99
6402 19
6402 20
6402 91
6402 99
6403 12
6403 19
6403 20
6403 30
6403 40
6403 51
6403 59
6403 91
6403 99
6404 11
6404 19
6404 20
6405 10
6405 20
6405 90

6404 19 10

6402 99 10 10
6402 99 91 10
6402 99 93 10
6402 99 96 10
6402 99 98 11
6403 91 11 10
6403 91 13 10
6403 91 16 10
6403 91 18 10
6403 91 91 10
6403 91 93 10
6403 91 96 10
6403 91 98 10
6403 99 91 10
6403 99 93 11 + 19
6403 99 96 11 + 19
6403 99 98 11 + 19