

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 549 final

Brussels, 9 November 1989

Proposals for
COUNCIL REGULATIONS (EEC)

amending Regulations (EEC) Nos 2837/72, 3288/73, 2843/72, 1692/73, 2839/72
and 2841/72 on safeguard measures provided for in the Agreements between the
EEC and Austria, Finland, Iceland, Norway, Sweden and Switzerland

(presented by the Commission)

Explanatory Memorandum

In May the Commission sent the Council proposals for Decisions on the conclusion of supplementary protocols to the European Economic Community's free trade agreements with Austria, Finland, Iceland, Norway, Sweden and Switzerland, with the aim of eliminating export restrictions which obstruct trade between the Community and these countries.

The above protocols also allow the contracting parties to take safeguard measures in the event of shortages or re-export to non-member countries against which the exporting contracting party applies restrictions. As a result, it is necessary to lay down implementing regulations for these new provisions. In order to ensure that the import and export arrangements are symmetrical and consistent the Commission is proposing to include these provisions in the Regulations on safeguard measures provided for in the basic agreements.

The Commission has also taken the opportunity to update these Regulations and adapt them to the new Community procedures. In particular, it regards the national trigger mechanism provided for in Article 4 of the Regulations as in conflict with the proper operation of the common market and the target of completing the internal market in 1992. In this context we should recall that Article 7 of the Regulations already allows the Commission to propose to the Council adjustments which have proved necessary in the light of experience in order to avoid undermining the unity of the common market. The Commission therefore proposes to replace these provisions with a Community procedure on safeguard clauses in line with the rules laid down Article 3 of Council Decision 87/373/EEC of 13 July 1987.

Note that the current provisions enabling national safeguard measures to be taken against EFTA countries have never been applied and that the national trigger mechanism initially provided for in Regulation (EEC) No 268/82 of 5 February 1982 on common rules for imports was abolished on 1 January 1988.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission;

Whereas a supplementary protocol to the Agreement between the European Economic Community and .../1/ was signed on with the aim of eliminating existing quantitative restrictions on exports or measures having equivalent effect and preventing the introduction of new ones;

Whereas the protocol provides for the insertion in the Agreement of a specific safeguard clause designed to mitigate the problems likely to arise as a result of the abolition of the export restrictions; whereas implementing provisions should be laid down by amending Council Regulation (EEC) No¹;

Whereas Article 7 of the said Regulation provides that in order to avoid jeopardizing the unity of the common market the Commission may propose to the Council that the Regulation, and in particular Article 4(3) thereof, be amended in the light of experience; whereas, in the context of the completion of the internal market in 1992, the national safeguard measures should be abolished and replaced by a Community procedure in accordance with the provisions of Council Decision 87/373/EEC²;

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- a) Republic of Austria - Council Regulation (EEC) No 2837/72 of 19.12.1972 - OJ No L 300, 31.12.1972, p. 94.
 - b) Republic of Finland - Council Regulation (EEC) No 3288/73 of 3.12.1973 - OJ No L 338, 7.12.1973, p. 2.
 - c) Republic of Iceland - Council Regulation (EEC) No 2843/72 of 19.12.1972 - OJ No L 301, 31.12.1972, p. 162.
 - d) Kingdom of Norway - Council Regulation (EEC) No 1692/73 of 25.6.1973 - OJ No L 171, 27.6.1973, p. 103.
 - e) Kingdom of Sweden - Council Regulation (EEC) No 2839/72 of 19.12.1972 - OJ No L 300, 31.12.1972, p. 97.
 - f) Swiss Confederation - Council Regulation (EEC) No 2841/72 of 19.12.1972 - OJ No L 300 of 31.12.1972, p. 284.
- 2 OJ No L 197, 18.7.1987, p. 33.

HAS ADOPTED THIS REGULATION:

Sole Article

Regulation (EEC) No .../17 shall be amended as follows:

1) In Article 1(1) the phrase "for the purpose of taking the measures provided for in Articles 22, 24 and 26 of the Agreement" shall be replaced by the phrase "for the purpose of taking the measures provided for in Articles 22, 24, 24a and 26 of the Agreement"³.

2) Article 4 shall be replaced by the following:

" Article 4

1. Where exceptional circumstances require immediate action in the situations referred to in Articles 24, 24a and 26 of the Agreement or in the case of export aids that have a direct and immediate effect on trade, the precautionary measures provided for in Article 27(3)(e)⁴ of the Agreement may be adopted as follows.

³In the case of Iceland, Articles 23, 25 and 27, and Articles 23, 25, 25a and 27 respectively.

⁴In the case of Iceland, Articles 25, 25a and 27, and Article 28(3)(e) respectively.

2. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

The committee shall meet when convened by its chairman. The latter shall communicate any appropriate information to the Member States without delay.

3. After consulting the committee the Commission may decide on appropriate measures either on its own initiative or at the request of a Member State. All the Member States shall be notified of the Commission's decision, which shall apply immediately.
4. Where the Commission is asked to take action by a Member State, it shall take a decision within a maximum period of five working days of receipt of the request.
5. Any Member State may refer the Commission's decision to the Council within a maximum period of five working days of notification of the decision.

The Council, acting by a qualified majority, may take a different decision within a maximum period of ten working days of such referral."

- 3) Article 7 is hereby repealed.

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

Done at Brussels,

For the Council

ANNEX

COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

- I. What is the main reason for introducing the measure?
- Implementing new safeguard clause contained in supplementary protocols to free trade agreements between EEC and EFTA countries on elimination of export restrictions recently forwarded by Commission to Council for conclusion;
 - replacing the possibility for Member States to take national safeguard measures by an appropriate Community procedure in accordance with the objective of completing the internal market by 1992.
- II. Features of the businesses in question. In particular:
- (a) Are there many SMEs?
- No
- (b) have any mergers been noted in any regions which are:
- (i) eligible for regional aid in the Member States?
 - (ii) eligible under the ERDF?
- No
- III. What direct obligations does this measure impose on businesses?
- None
- IV. What indirect obligations are local authorities likely to impose on businesses?
- None
- V. Are there any special measures in respect of SMEs? Please specify.
- None
- VI. What is the likely effect on:
- (a) the competitiveness of businesses?
- (b) employment?
- It is clearly in the interest of all sectors of the economy both to provide for effective Community safeguard action in EC-EFTA trade in the event of serious difficulties due to shortage of strategic raw materials or to deflection of trade involving third countries and to avoid the inevitable fragmentation of the Community market which would result from Member States taking national measures.
- VII. Have both sides of industry been consulted? Please indicate their opinions.
- No. The draft regulations envisaged concern purely administrative procedures.

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DOCUMENTS

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