Ukraine

Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (OJ L 161, 29.05.2014)

Article 37 - Special provisions on administrative cooperation

1. The Parties agree that administrative cooperation is essential for the implementation and control of the preferential treatment granted under this Chapter and underline their commitment to combating irregularities and fraud in customs matters related to the import, export, and transit of goods and their placement under any other customs regime or procedure, including measures of prohibition, restriction and control.

2. Where a Party, on the basis of objective documented information, experiences a failure by the other Party to provide administrative cooperation and/or verify the existence of irregularities or fraud under this Chapter, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned in accordance with this Article.

3. For the purposes of this Article, failure to provide administrative cooperation in investigating customs irregularities or fraud shall mean, inter alia:

(a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned;

(b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;

(c) a repeated refusal or undue delay in obtaining authorisation to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

For the purposes of this Article, a finding of irregularities or fraud may be made, inter alia, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party that is linked to objective information concerning irregularities or fraud.

4. The application of a temporary suspension shall be subject to the following conditions:

(a) The Party which has, on the basis of objective information, made a finding of failure to provide administrative cooperation and/or of irregularities or fraud stemming from the other Party shall, without undue delay, notify the Trade Committee of its finding together with the objective information and enter into consultations within the Trade Committee, on the basis of all relevant information and objective findings, with a view to reaching a solution which is acceptable to both Parties. During the period of consultations referred to above, the product(s) concerned shall enjoy the preferential treatment.

(b) Where the Parties have entered into consultations within the Trade Committee as referred to in point (a) and have failed to agree on an acceptable solution within three months of the first meeting of the Trade Committee, the Party concerned may temporarily suspend the relevant preferential treatment of the product(s) concerned. Such temporary suspension shall be notified to the Trade Committee without undue delay.

(c) Temporary suspensions under this Article shall be limited to what is necessary to protect the financial interests of the Party concerned. Each temporary suspension shall not exceed six months. However, a temporary suspension may be renewed. Temporary suspensions shall be notified immediately after their adoption to the Trade Committee. They shall be subject to periodic consultations within the Trade Committee, in particular with a view to their termination as soon as the conditions for their application cease to exist.

5. At the same time as the notification to the Trade Committee under paragraph 4(a) of this Article, the Party concerned should publish a notice to importers in its sources of official information. The notice to importers should indicate for the product concerned that there is a finding, on the basis of objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.