II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/903

of 2 May 2023

introducing preventive measures concerning certain products originating in Ukraine

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade-liberalisation measures ([1]) and in particular Article 4(9) thereof,

Whereas:

(1) Following Russia's unprovoked and unjustified war of aggression against Ukraine since 24 February 2022, in order to support the Ukrainian economy, the European Union introduced by Regulation (EU) 2022/870 trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part ([2]) (hereinafter referred to as 'the Association Agreement'). In particular, Article 1 of Regulation (EU) 2022/870 provides, *inter alia*, for the suspension of all the tariff-rate quotas established under Annex I-A to the Association Agreement. It also provides that the products covered by those quotas are to be admitted for importation into the Union from Ukraine without any customs duties.

(2) Russia's war of aggression has also severely constrained Ukraine's access to its Black Sea ports and thus prevented the country from exporting its products to the rest of the world and from importing the products it needs. To avoid threats to global food security and to support the establishment of connectivity of Ukraine towards the Union, the Commission has facilitated the set-up of alternative transport routes (hereinafter referred to as 'EU-Ukraine Solidarity Lanes') to enable bilateral trade and Ukraine's access to global markets ([3]).

([1]) Regulation (EU) 2022/870 of the European Parliament and of the Council of 30 May 2022 on temporary trade –liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of one part, and Ukraine, of the other part (OJ L 152, 3.6.2022, p. 103).

([2]) OJ L 161, 29.5.2014, p. 3.

([3]) COM/2022/217 final. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions An action plan for EU-Ukraine Solidarity Lanes to facilitate Ukraine's agricultural export and bilateral trade with the EU.

(3) As a result of joint efforts by Member States, in particular Poland, Slovakia, Hungary, Romania and Bulgaria, as well as efforts of Ukraine, Moldova, other international partners and of the Commission, the EU-Ukraine Solidarity Lanes have become a lifeline for Ukraine's economy and a new connectivity with the Union, also serving to prevent a global food crisis ([4]).

(4) While many improvements have been achieved in the past months, important logistical bottlenecks still remain. Indeed, infrastructure remains insufficient to handle the surge in traffic in particular at the borders between Ukraine and Member States. Equipment is still urgently needed and capacity is scarce resulting in high logistics costs, while there is also a high risk of storage facilities in the affected Member States reaching full capacity rapidly. There is therefore pressing need for improved connectivity by better coordinating transit, enhancing infrastructure and lowering overall logistics costs, thereby ensuring that wheat, maize, rapeseed (colza) and sunflower seed originating in Ukraine can move deeper into the Union and beyond as needed.

(5) As a result of the high logistics costs and bottlenecks described above, there has been an increase in imports from Ukraine to the Member States close to Ukraine. These imports are saturating the storage capacity and logistical chains in particular in Bulgaria, Hungary, Poland, Romania and Slovakia. Those circumstances affect the economic viability of local producers in those Member States. On that basis, the Commission considers that exceptional circumstances are emerging that risk affecting the local Union producers. Given the urgency of the situation and the pressing need to address the matter, an investigation under Regulation (EU) 2022/870 at this stage is impossible. In light of those circumstances, the Commission therefore considers that immediate action is necessary in the form of preventive measures pursuant to Article 4(9) of that Regulation.

(6) Except as regards the execution of contracts that were signed before the entry into force of this Regulation, it is therefore necessary to ensure that wheat, maize, rapeseed (colza) and sunflower seed originating in Ukraine, all of which compete for the same storage capacities, are released for free circulation or placed under the customs warehousing, free zone or inward processing procedures, as provided for in Regulation (EU) 952/2013 of the European Parliament and of the Council ([5]), only in Member States other than Bulgaria, Hungary, Poland, Romania or Slovakia.

(7) However, that limitation does not affect the movement of those goods in or via Bulgaria, Hungary, Poland, Romania or Slovakia under the customs transit procedure, as provided for in Article 226 of Regulation (EU) 952/2013, to another Member State or to a country or territory outside the customs territory of the Union.

(8) The Commission has, in accordance with Article 4(9) of Regulation (EU) 2022/870, informed the Customs Code Committee referred to in Article 5(1) of that Regulation.

(9) In order to prevent speculative behaviour by market operators, this Regulation should enter into force on the day of its publication and apply until 5 June 2023,

HAS ADOPTED THIS REGULATION:

Article 1

Except for the execution of contracts that were signed before the entry into force of this Regulation, the release for free circulation or placing under the customs warehousing, free zone or inward processing procedures of the products listed in the Annex to this Regulation originating in Ukraine, shall only be allowed in Member States other than Bulgaria, Hungary, Poland, Romania or Slovakia.

([4]) Between May 2022 and March 2023, Ukraine exported via the EU-Ukraine Solidarity Lanes more than 63 million tonnes of goods, including 32 million tonnes of grain and oilseeds, and brought back more than EUR 26 bn in income to Ukraine. The Solidarity Lanes have also allowed Ukraine to import close to 23 million tonnes of goods, bringing more than EUR 48 bn in income to EU businesses.

([5]) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union* and shall apply until 5 June 2023.

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

Done at Brussels, 2 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Product Description	Commodity Code
Wheat	
Wheat and meslin	1001
Maize	
Maize (corn)	1005
Rapeseed	
Rape or colza seeds, whether or not broken	1205
Sunflower seeds	
Sunflower seeds, whether or not broken	1206