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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo* of the other part
– Outcome of the European Parliament's first reading
(Strasbourg, 16 to 19 January 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Mr Adam SZEJNFELD (EPP, PL) presented three compromise amendments (amendments 1 -3) to the proposal for a Regulation, on behalf of the Committee on International Trade. These amendments had been agreed during the informal contacts referred to above.

No other amendments were tabled.

II. VOTE

When it voted on 19 January 2017, the plenary adopted the three compromise amendments to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

EU-Kosovo Stabilisation and Association Agreement: procedures for its application *I**

European Parliament legislative resolution of 19 January 2017 on the proposal for a regulation of the European Parliament and of the Council on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo* of the other part (COM(2016)0460 – C8-0327/2016 – 2016/0218(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0460),
 - having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0327/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the letter from the Committee on Foreign Affairs,
 - having regard to the undertaking given by the Council representative by letter of 12 December 2016 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A8-0361/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

Position of the European Parliament adopted at first reading on 19 January 2017 with a view to the adoption of Regulation (EU) 2017/... of the European Parliament and of the Council on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo* of the other part

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

¹ Position of the European Parliament of 19 January 2017.

Whereas:

- (1) The Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo* of the other part¹, (the 'Agreement') was signed on 27 October 2015. The Agreement entered into force on 1 April 2016.
- (2) It is necessary to lay down rules for the implementation of certain provisions of the Agreement, as well as the procedures for the adoption of detailed rules of implementation.
- (3) In order to ensure uniform conditions for the implementation of the Agreement, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council². ***In accordance with that Regulation, the examination procedure applies, in particular, for the adoption of implementing acts relating to the common commercial policy. However, the advisory procedure may apply in duly justified cases.*** Where the Agreement provides for the possibility, in exceptional and critical circumstances, to apply ***forthwith*** measures necessary to deal with the situation, the Commission should adopt such implementing acts immediately. The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to measures concerning agricultural and fishery products, imperative grounds of urgency so require.

* ***This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.***

¹ OJ L 71, 16.3.2016, p. 3.

² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L55, 28.2.2011, p. 13).

- (4) The Agreement stipulates that certain agricultural and fishery products originating in Kosovo may be imported into the Union at a reduced customs duty, within the limits of tariff quotas. It is therefore necessary to lay down provisions regulating the management and review of these tariff quotas in order to allow for their thorough assessment.
- (5) Where trade defence measures become necessary, they should be adopted in accordance with Regulation (EU) 2015/478 of the European Parliament and of the Council¹, Regulation (EU) 2016/1036 of the European Parliament and of the Council² or, as the case may be, Regulation (EU) 2016/1037 of the European Parliament and of the Council³.
- (6) Where a Member State provides information to the Commission on a possible case of fraud or failure to provide administrative cooperation, the relevant Union legislation should apply, in particular Council Regulation (EC) No 515/97⁴.
- (7) This Regulation contains implementing measures for the Agreement, and should thus apply from the entry into force of the Agreement,

■

HAVE ADOPTED THIS REGULATION:

¹ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p. 16).

² Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21).

³ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).

⁴ Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

Article 1
Subject matter

This Regulation lays down the rules and procedures for the adoption of detailed rules for the implementation of certain provisions of the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo^{*}, of the other part (the 'Agreement').

Article 2
Concessions for fish and fishery products

The Commission shall adopt detailed rules on the implementation of Article 31 of the Agreement, concerning the tariff quotas for fish and fishery products, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article **12**(3) of this Regulation.

Article 3
Tariff reductions

1. Subject to paragraph 2, rates of preferential duty shall be rounded down to the first decimal place.

^{*} This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

2. The preferential rate shall be considered to be full exemption where the result of calculating the rate of preferential duty in accordance with paragraph 1 is one of the following:
- (a) 1 % or less in the case of *ad valorem* duties;
 - (b) EUR 1 or less per individual amount in the case of specific duties.

Article 4 Technical adaptations

The Commission shall adopt amendments and technical adaptations to the provisions adopted pursuant to this Regulation which are necessary following changes to the Combined Nomenclature codes and to the Integrated Tariff of the European Communities subdivisions or arising from the conclusion of new or modified agreements, protocols, exchanges of letters or other acts between the Union and Kosovo, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

Article 5
General safeguard clause

Where the Union needs to take a measure as provided for in Article 43 of the Agreement, the Commission shall adopt that measure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article *12*(3) of this Regulation, unless otherwise specified in Article 43 of the Agreement.

Article 6
Shortage clause

Where the Union needs to take a measure as provided for in Article 44 of the Agreement, the Commission shall adopt that measure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article *12*(3) of this Regulation.

Article 7
Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of Article 43(5)(b) and Article 44(4) of the Agreement, the Commission may take immediately applicable measures as provided for in Articles *43* and *44* of the Agreement, in accordance with the procedure referred to in Article *12*(4) of this Regulation.

Article 8

Safeguard clause for agricultural and fishery products

1. Notwithstanding the procedures provided for in Articles 5 and 6 of this Regulation, where the Union needs to take a measure as provided for in Article 34 **■** or 43 of the Agreement, concerning agricultural and fishery products, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures after, where applicable, having had recourse to the referral procedure provided for in Article **43** of the Agreement. Those measures shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article **12(3)** of this Regulation.

On duly justified imperative grounds of urgency, including the case referred to in paragraph 2 of this Article, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article **12(4)** of this Regulation.

2. If the Commission receives the request referred to in paragraph 1 from a Member State, it shall take a decision thereon:
 - (a) within three working days following the receipt of that request, where the referral procedure provided for in Article 43 of the Agreement does not apply; or

- (b) within three working days of the end of the 30-day period referred to in Article 43(5)(a) of the Agreement, where the referral procedure provided for in Article 43 of the Agreement applies.

The Commission shall notify the Council of the measures upon which it has decided.



Article 9

Dumping and subsidy

In the event of a practice that may cause the Union to take the measures provided for in Article 42(2) of the Agreement, the introduction of anti-dumping or countervailing measures, or both, shall be decided in accordance with the provisions laid down in Regulation (EU) 2016/1036 and Regulation(EU) 2016/1037, respectively.

Article 10
Competition

1. In the event of a practice which the Commission considers to be incompatible with Article 75 of the Agreement, the Commission shall, after examining the case on its own initiative or at the request of a Member State, decide upon the appropriate measure provided for in Article 75 of the Agreement.

The measures provided for in Article 75(9) of the Agreement shall be adopted in the cases of aid in accordance with the procedures laid down in Regulation (EU) 2016/1037.

2. In the event of a practice that may cause measures to be applied to the Union by Kosovo on the basis of Article 75 of the Agreement, the Commission shall, after examining the case, decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, the Commission shall take appropriate decisions on the basis of criteria which result from the application of Articles 101, 102 and 107 of the Treaty.

Article 11

Fraud or failure to provide administrative co-operation

1. Where the Commission, on the basis of information provided by a Member State or on its own initiative, finds that the conditions laid down in Article 48 of the Agreement are fulfilled, it shall, without undue delay:
 - (a) inform the European Parliament and the Council; and
 - (b) notify the Stabilisation and Association Committee of its finding together with the objective information it is based on, and enter into consultations within the Stabilisation and Association Committee.
2. Any publication pursuant to Article 48(5) of the Agreement shall be done by the Commission in the *Official Journal of the European Union*.
3. The Commission may decide, by means of implementing acts, to suspend temporarily the relevant preferential treatment of the products as provided for in Article 48(4) of the Agreement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

Article 12

Committee procedure

1. For the purposes of Articles 2, 4 and **II** of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. For the purposes of Articles 5 to 8 of this Regulation, the Commission shall be assisted by the Committee on Safeguards established by Article 3 of Regulation (EU) 2015/478. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8(1) to (4) of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 13

Notification

The Commission, acting on behalf of the Union, shall be responsible for notification to the Stabilisation and Association Council and the Stabilisation and Association Committee, respectively, as required by the Agreement.

¹ **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 14

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2016.

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

Done at ,

For the European Parliament

For the Council

The President

The President
