



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

**Brussels, 20 March 2015
(OR. en)**

2014/0190 (COD)

PE-CONS 4/15

**CODIF 5
ECO 4
INST 14
MI 36
CODEC 98**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (codification)

REGULATION (EU) 2015/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on certain procedures for applying
the Stabilisation and Association Agreement between
the European Communities and their Member States, of the one part,
and the Republic of Montenegro, of the other part
(codification)

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(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ Opinion of 10 December 2014 (not yet published in the Official Journal).

² Position of the European Parliament of 11 March 2015 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) Council Regulation (EC) No 140/2008¹ has been substantially amended². In the interests of clarity and rationality, that Regulation should be codified.
- (2) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part³ ('SAA'), was signed on 15 October 2007 and entered into force on 1 May 2010.
- (3) It is necessary to lay down the procedures for applying certain provisions of the SAA.
- (4) The SAA stipulates that fishery products originating in Montenegro 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 of those tariff quotas.

¹ Council Regulation (EC) No 140/2008 of 19 November 2007 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Montenegro, of the other part (OJ L 43, 19.2.2008, p. 1).

² See Annex I.

³ OJ L 108, 29.4.2010, p. 3.

- (5) Where trade defence measures become necessary, they should be adopted in accordance with the general provisions laid down in Council Regulation (EC) No 260/2009¹, Council Regulation (EC) No 1061/2009², Council Regulation (EC) No 1225/2009³ or, as the case may be, Council Regulation (EC) No 597/2009⁴.
- (6) Where a Member State provides the Commission with information on a possible fraud or failure to provide administrative cooperation, the relevant Union legislation shall apply, in particular Council Regulation (EC) No 515/97⁵.
- (7) For the purposes of implementing the relevant provisions of this Regulation the Commission should be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁶.

¹ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).

² Council Regulation (EC) No 1061/2009 of 19 October 2009 establishing common rules for exports (OJ L 291, 7.11.2009, p. 1).

³ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

⁴ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.7.2009, p. 93).

⁵ 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).

⁶ 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).

- (8) The implementation of the bilateral safeguard clauses of the SAA requires uniform conditions for the adoption of safeguard and other measures. Those measures should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (9) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to exceptional and critical circumstances arising within the meaning of point (b) of Article 41(5) and Article 42(4) of the SAA, imperative grounds of urgency so require,

HAVE ADOPTED THIS REGULATION:

¹ 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 L 55, 28.2.2011, p. 13).

Article 1
Subject matter

This Regulation lays down certain procedures for the adoption of detailed rules for the implementation of certain provisions of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part ('SAA').

Article 2
Concessions for fish and fishery products

Detailed rules on the implementation of Article 29 of the SAA, concerning the tariff quotas for fish and fishery products, shall be adopted by the Commission in accordance with the examination procedure referred to in Article 9(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.
2. Where the result of calculating the rate of preferential duty pursuant to paragraph 1 is one of the following, the preferential rate shall be considered a full exemption:
 - (a) 1 % or less in the case of *ad valorem* duties; or
 - (b) EUR 1 or less per individual amount in the case of specific duties.

Article 4
Technical adaptations

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 TARIC subdivisions, or arising from the conclusion of new or modified agreements, protocols, exchanges of letters or other acts between the Union and Montenegro, shall be adopted in accordance with the examination procedure referred to in Article 9(3).

Article 5
General safeguard clause

Where the Union needs to take a measure as provided for in Article 41 of the SAA, it shall be adopted in accordance with the examination procedure referred to in Article 9(3) of this Regulation, unless otherwise specified in Article 41 of the SAA.

Article 6
Shortage clause

Where the Union needs to take a measure as provided for in Article 42 of the SAA, it shall be adopted in accordance with the examination procedure referred to in Article 9(3) of this Regulation.

Article 7

Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of point (b) of Article 41(5) and Article 42(4) of the SAA, the Commission may take immediate measures as provided for in Articles 41 and 42 of the SAA.

If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request.

The Commission shall take the measures referred to in the first paragraph in accordance with the examination procedure referred to in Article 9(3) of this Regulation. In cases of urgency, Article 9(4) of this Regulation shall apply.

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 safeguard measure, as provided for in Article 41 of the SAA, 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 41 of the SAA.

If the Commission receives a request from a Member State, it shall take a decision thereon:

- (a) within three working days of the receipt of a request, where the referral procedure provided for in Article 41 of the SAA does not apply; or
- (b) within three days of the end of the 30-day period referred in point (a) of Article 41(5) of the SAA, where the referral procedure provided for in Article 41 of the SAA applies.

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

2. The Commission shall take such measures in accordance with the examination procedure referred to in Article 9(3). In cases of urgency, Article 9(4) shall apply.

Article 9

Committee procedure

1. For the purpose of Article 4 of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. For the purpose of Articles 5 to 8 of this Regulation, the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Regulation (EC) No 260/2009. 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 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 10

Dumping and subsidy

In the event of a practice which is liable to warrant application by the Union of the measures provided for in Article 40(2) of the SAA, the introduction of anti-dumping and/or countervailing measures shall be decided upon in accordance with the provisions laid down in Regulation (EC) No 1225/2009 and/or Regulation (EC) No 597/2009, respectively.

Article 11

Competition

1. In the event of a practice which may justify application by the Union of the measures provided for in Article 73 of the SAA, the Commission shall, after examining the case, on its own initiative or on the request of a Member State, decide whether such practice is compatible with the SAA.

The measures provided for in Article 73(10) of the SAA, shall be adopted, in the cases of aid, in accordance with the procedures laid down in Regulation (EC) No 597/2009 and, in other cases, in accordance with the procedure laid down in Article 207 of the Treaty.

2. In the event of a practice which may cause measures to be applied to the Union by Montenegro on the basis of Article 73 of the SAA, the Commission shall, after examining the case, decide whether the practice is compatible with the principles set out in the SAA. 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 12

Fraud or failure to provide administrative cooperation

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 46 of the SAA are fulfilled, it shall, without undue delay:

- (a) inform the Council; and
- (b) notify the Stabilisation and Association Committee of its finding together with the objective information, and enter into consultations within the Stabilisation and Association Committee.

Any publication under Article 46(5) of the SAA shall be effected by the Commission in the *Official Journal of the European Union*.

The Commission may decide, in accordance with the examination procedure set out in Article 9(3) of this Regulation, to suspend temporarily the relevant preferential treatment of the products as provided for in Article 46(4) of the SAA.

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, as required by the SAA.

Article 14
Repeal

Regulation (EC) No 140/2008 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 15
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*.

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

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX I

Repealed Regulation with the amendment thereto

Council Regulation (EC) No 140/2008

(OJ L 43, 19.2.2008, p. 1)

Regulation (EU) No 37/2014 of the European Parliament
and of the Council

Only point 15 of the Annex

(OJ L 18, 21.1.2014, p. 1)

ANNEX II

Correlation Table

Regulation (EC) No 140/2008	This Regulation
Articles 1 to 8	Articles 1 to 8
Article 8a	Article 9
Article 9	Article 10
Article 10	Article 11
Article 11	Article 12
Article 13	Article 13
—	Article 14
Article 14	Article 15
—	Annex I
—	Annex II