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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 April 2015
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2015) 155 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL implementing the anti-circumvention mechanism providing for the temporary suspension of tariff preferences of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part

Delegations will find attached document COM(2015) 155 final.

Encl.: COM(2015) 155 final



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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

implementing the anti-circumvention mechanism providing for the temporary suspension of tariff preferences of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

This proposal concerns the incorporation in the European Union law of the anti-circumvention mechanism foreseen in the EU-Georgia Association Agreement.

General context

The Association Agreement with Georgia includes a so-called anti-circumvention mechanism, which provides for the possibility to reintroduce the MFN customs duty rate when imports of certain agricultural goods from Georgia exceed a given threshold without due justification of their exact origin.

An implementing regulation of the European Parliament and of the Council is necessary to put in place in the EU's internal legislation the necessary instrument to be able to apply the anti-circumvention mechanism.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

This proposal for an implementing Regulation is directly derived from the text of the Agreement negotiated with Georgia. Consequently, neither a separate consultation with interested parties nor any impact assessment is necessary.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The attached proposal for a Regulation of the European Parliament and of the Council constitutes the legal instrument for the implementation of the anti-circumvention mechanism of the Agreement already concluded with Georgia.

Legal basis

Article 207(2) of the Treaty on the Functioning of the European Union.

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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,

Acting in accordance with the ordinary legislative procedure¹,

Whereas:

- (1) On 10 May 2010, the Council authorised the Commission to open negotiations with Georgia for the conclusion of a new agreement between the Union and Georgia.
- (2) Those negotiations have been concluded and the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part² ('the Agreement') was signed on 27 June 2014 and has been provisionally applied from 1 September 2014.
- (3) It is necessary to lay down the procedures to guarantee the effective application of the anti-circumvention mechanism for the temporary suspension of tariff preferences contained in the Agreement.
- (4) There should be a possibility to suspend the preferential customs duties for a maximum period of six months when the imports of certain agricultural products and processed agricultural products reach the defined annual import volumes.
- (5) For reasons of transparency, the Commission should submit an annual report to the European Parliament and to the Council on the implementation of the Agreement and the application of the anti-circumvention mechanism.

¹

² Council Decision 2014/494/EU of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (OJ L 261, 30.8.2014, p. 4).

- (6) The implementation of the anti-circumvention mechanism for the temporary suspension of tariff preferences provided for in the Agreement requires uniform conditions. In order to ensure uniform conditions for the implementation of this Regulation, 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 Council³.
- (7) The advisory procedure should be used for the adoption of implementing acts given that those acts have to be implemented quickly once the relevant threshold for the categories of products listed in Annex II-C to the Agreement has been met as they have only a very limited period of application.
- (8) In order to prevent a negative impact on the Union market as a result of an increase in imports, the Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the temporary suspension of the preferential tariffs under the anti-circumvention mechanism provided in the Agreement, imperative grounds of urgency so require,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down provisions for the implementation of the anti-circumvention mechanism providing for the temporary suspension of tariff preferences contained in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part.
2. This Regulation applies to products originating in Georgia.

Article 2

Anti-circumvention mechanism for certain agricultural products and processed agricultural products

1. An average annual import volume is set for imports of the products listed in Annex II-C to the Agreement, which are subject to the anti-circumvention mechanism set out in Article 27 of the Agreement. On duly justified imperative grounds of urgency relating to the import volume of one or more categories of products that reach the volume indicated in Annex II-C to the Agreement in any given year starting on 1 January, and unless it has received a sound justification from Georgia, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 4(2) of this Regulation. The Commission

³ 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).

may either decide to temporarily suspend the preferential duty applied to the product(s) concerned or that such suspension is not appropriate.

2. The temporary suspension of the preferential duty shall be applicable for a maximum period of six months from the date of publication of the decision to suspend the preferential duty. Before the expiry of that six-month period and on duly justified imperative grounds of urgency relating to the suspension of the preferential duties, the Commission may adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 4(2) of this Regulation in order to lift the temporary suspension of the preferential duty if it is satisfied that the volume of the relevant category of products imported in excess of the volume referred to in Annex II-C to the Agreement results from a change in the level of production and export capacity of Georgia for the product(s) concerned.

Article 3

Report

1. The Commission shall submit an annual report to the European Parliament and to the Council on the application, implementation and compliance with the obligations laid down in Title IV of the Agreement and of this Regulation.
2. The report shall set out a summary of the statistics and the evolution of trade with Georgia.
3. The European Parliament may, within one month of submission of the Commission's report, invite the Commission to an ad hoc meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation.
4. No later than three months after submitting its report to the European Parliament and to the Council, the Commission shall make it public.

Article 4

Committee procedure

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229(1) of Regulation (EU) No 1308/2013 and, as regards processed agricultural products, the Commission shall be assisted by the Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I established by Article 44(1) of Regulation (EU) No 510/2014⁴. These Committees shall be committees within the meaning of Regulation (EU) No 182/2011.

⁴ Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 (OJ L 150, 20.5.2014, p. 1).

2. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

Article 5

Entry into force

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

It shall apply to imports from Georgia from the date of application of the Agreement.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President