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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 exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process (codification) - Outcome of the European Parliament's first reading (Strasbourg, 15 to 18 January 2024)

I. INTRODUCTION

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 file at first reading.

In this context, the rapporteur, Magdalena ADAMOWICZ (EPP, PL), presented a report on behalf of the Committee on Legal Affairs (JURI). One amendment in the form of an addendum to the report was presented to the plenary.

II. VOTE

When the plenary voted on 16 January 2024, it adopted the addendum to the report by means of a single vote.

The text adopted and the legislative resolution constitute the European Parliament's first reading position as set out in the Annex hereto.

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.

P9_TA(2024)0005

Exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process

European Parliament legislative resolution of 16 January 2024 on the proposal for a regulation of the European Parliament and of the Council on exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process (codification) (COM(2022)0503 – C9-0323/2022 – 2022/0304(COD))

(Ordinary legislative procedure – codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2022)0503),
 - having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0323/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the Interinstitutional Agreement of 20 December 1994 - Accelerated working method for official codification of legislative texts¹,
 - having regard to Rules 109 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A9-0001/2024),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance;
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 102, 4.4.1996, p. 2.

Position of the European Parliament adopted at first reading on 16 January 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council on exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process (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,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 16 January 2024.

Whereas:

- (1) Council Regulation (EC) No 1215/2009² has been substantially amended several times³. In the interests of clarity and rationality, that Regulation should be codified.
- (2) Stabilisation and Association Agreements have been concluded with all participants in the Stabilisation and Association process.
- (3) A Union market opening to imports from the Western Balkan countries is expected to contribute to the process of political and economic stabilisation in the region while not creating negative effects for the Union.

² Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (OJ L 328, 15.12.2009, p. 1).

³ See Annex II.

- (4) The system of autonomous trade measures originally established by Council Regulation (EC) No 2007/2000⁴ constitutes a valuable support for the economies of the Western Balkan partners.
- (5) The measures provided for in this Regulation are part of the Stabilisation and Association process, and are in response to the specific situation in the Western Balkans. Those measures should not constitute a precedent for Union trade policy with other third countries.

⁴ Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, amending Regulation (EC) No 2820/98, and repealing Regulations (EC) No 1763/1999 and (EC) No 6/2000 (OJ L 240, 23.9.2000, p. 1).

- (6) In accordance with the Stabilisation and Association process, based on the earlier Regional Approach and the Council Conclusions of 29 April 1997, the development of bilateral relations between the European Union and the Western Balkan countries is subject to certain conditions. The granting of autonomous trade preferences is linked to respect for fundamental principles of democracy and human rights and to the readiness of the countries concerned to develop economic relations between themselves. The granting of improved autonomous trade preferences in favour of countries participating in the Stabilisation and Association process should be linked to their readiness to engage in effective economic reforms and in regional cooperation, in particular through the establishment of free trade areas in accordance with relevant GATT/WTO standards. In addition, entitlement to benefit from autonomous trade preferences should be conditional on the involvement of the beneficiary parties in effective administrative cooperation with the Union in order to prevent any risk of fraud.
- (7) Trade preferences can only be granted to countries or territories possessing a customs administration.
- (8) The trade measures provided for in this Regulation should take into account that Serbia and Kosovo(*) each constitute a separate customs territory.

* 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.

- (9) For the purposes of certification of origin and administrative cooperation procedures, the relevant provisions of Commission Delegated Regulation (EU) 2015/2446⁵ and Commission Implementing Regulation (EU) 2015/2447⁶ should be applied.
- (10) In order to adopt the provisions necessary for the application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the necessary amendments and technical adjustments to Annex I following amendments to the Combined Nomenclature codes and to the integrated tariff of the European Union (TARIC) subdivisions, as well as the necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁵ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

⁶ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

⁷ OJ L 123, 12.5.2016, p. 1.

- (11) In order to ensure uniform conditions for the implementation of this Regulation with regard to the suspension of the entitlement to benefit from the preferential arrangements in the event of non-compliance, the issuing of authenticity certificates attesting that the products originate in the country or territory concerned and correspond to the definition in this Regulation, and for the temporary suspension, in whole or in part, of the arrangements provided for in 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 Council⁸.
- (12) It is appropriate to limit the period of application of this Regulation to 31 December 2025,

HAVE ADOPTED THIS REGULATION:

⁸ 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
Preferential arrangements

1. Products originating in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia ('the beneficiary parties') covered by Chapters 7 and 8 of the Combined Nomenclature shall be admitted for import into the Union without quantitative restrictions or measures having equivalent effect, and with exemption from custom duties and charges having equivalent effect.
2. Products originating in the beneficiary parties shall continue to benefit from the provisions of this Regulation where so indicated in those provisions . Such products shall also benefit from any concession provided for in this Regulation which is more favourable than that provided for under bilateral agreements between the Union and those beneficiary parties.

Article 2

Conditions for entitlement to the preferential arrangements

1. Entitlement to benefit from the preferential arrangements referred to in Article 1 shall be subject to the following conditions:
 - (a) compliance with the definition of ‘originating products’ provided for in Title II, Chapter 1, Section 2, Subsections 4 and 5, of Delegated Regulation (EU) 2015/2446, and Title II, Chapter 2, Section 2, Subsections 10 and 11, of Implementing Regulation (EU) 2015/2447;
 - (b) abstention of the beneficiary parties from introducing new duties and charges having equivalent effect and new quantitative restrictions or measures having equivalent effect in respect of imports originating in the Union, from increasing existing levels of duties or charges or from introducing any other restrictions;
 - (c) the involvement of beneficiary parties in effective administrative cooperation with the Union in order to prevent any risk of fraud; and
 - (d) abstention of the beneficiary parties from engaging in serious and systematic violations of human rights, including core labour rights, of fundamental principles of democracy and of the rule of law.
2. Without prejudice to the conditions laid down in paragraph 1 of this Article, entitlement to benefit from the preferential arrangements referred to in Article 1 shall be subject to the readiness of the beneficiary parties to engage in effective economic reforms and in regional cooperation with other countries involved in the Stabilisation and Association process, in particular through the establishment of free trade areas in accordance with Article XXIV of the GATT 1994 and other relevant WTO provisions.

In the event of non-compliance with the first subparagraph, the Council may take the appropriate measures by a qualified majority vote, on the basis of a Commission proposal.

3. In the event of non-compliance by a beneficiary party with paragraph 1, point (a), (b) or (c), or with paragraph 2 of this Article, the Commission may, by means of implementing acts, suspend, in whole or in part, the entitlement of the beneficiary party concerned to benefits under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

Article 3

Agricultural products — tariff quotas

1. For certain wine products, as listed in Annex I, originating in the beneficiary parties, the customs duties applicable to imports into the Union shall be suspended during the periods, at the levels, within the limits of the Union tariff quota and under the conditions indicated for each product and origin set out in that Annex.
2. Notwithstanding other provisions of this Regulation, in particular Article 10, given the particular sensitivity of the agricultural and fishery markets, where imports of agricultural and fishery products cause serious disturbance to Union markets and their regulatory mechanisms, the Commission may adopt appropriate measures by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

Article 4
Management of tariff quotas

The tariff quotas referred to in Article 3(1) of this Regulation shall be managed by the Commission in accordance with Title II, Chapter 1, Section 1, of Implementing Regulation (EU) 2015/2447.

Communication for that purpose between the Member States and the Commission shall be effected, as far as possible, by telematic link.

Article 5
Access to tariff quotas

Each Member State shall ensure that importers have equal and uninterrupted access to the tariff quotas for as long as the balance of the relevant quota volume so permits.

Article 6
Delegation of powers

The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning:

- (a) necessary amendments and technical adjustments to Annex I following amendments to the Combined Nomenclature codes and to the integrated tariff of the European Union (TARIC) subdivisions;
- (b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the beneficiary parties;
- (c) suspension, in whole or in part, of the entitlement of a beneficiary party concerned to benefits under this Regulation, in the event of non-compliance by that beneficiary party with Article 2(1), point (d).

Article 7
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for a period of five years from 3 December 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 6 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 6 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 8

Committee procedure

1. For the purposes of Articles 2 and 10, the Commission shall be assisted by the Western Balkans Implementation Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. For the purposes of Article 3(2), the Commission shall be assisted by the committee established by Article 3(1) of Regulation (EU) 2015/478 of the European Parliament and of the Council⁹. 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.

⁹ 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).

Article 9
Cooperation

Member States and the Commission shall cooperate closely to ensure that this Regulation, in particular Article 10(1), is complied with.

Article 10
Temporary suspension

1. Where the Commission finds that there is sufficient evidence of fraud or failure to provide administrative cooperation as required for the verification of evidence of origin, or that there is a massive increase in exports into the Union above the level of normal production and export capacity or a failure to comply with Article 2(1), point (a), (b) or (c), by the beneficiary parties, it may take measures to suspend in whole or in part the arrangements provided for in this Regulation for a period of three months, provided that it has first:
 - (a) informed the Western Balkans Implementation Committee;

- (b) called on the Member States to take such precautionary measures as are necessary in order to safeguard the Union's financial interests or to secure compliance by the beneficiary parties with Article 2(1);
- (c) published a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubts about the application of the preferential arrangements or compliance with Article 2(1) by the beneficiary party concerned which may call into question its right to continue enjoying the benefits granted by this Regulation.

The measures referred to in the first subparagraph of this paragraph shall be adopted by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

2. Upon the conclusion of the period of suspension, the Commission shall decide either to terminate the provisional suspension measure or to extend the suspension measure in accordance with paragraph 1.

Article 11

Repeal

Regulation (EC) No 1215/2009 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 III.

Article 12

Entry into force and application

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 until 31 December 2025.

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

ANNEX I

CONCERNING THE TARIFF QUOTAS REFERRED TO IN ARTICLE 3(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products shall be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme shall be determined by the application of the CN code and the corresponding description, taken together.

Order No	CN Code	Description	Quota volume per year ¹	Beneficiary parties	Rate of duty
09.1530	ex 2204 21 94 ex 2204 21 95 ex 2204 21 96 ex 2204 2197 ex 2204 21 98 ex 2204 22 93 ex 2204 22 94	Wine of fresh grapes, of an actual alcoholic strength by volume not exceeding 15 % vol, other than sparkling wine	30 000 hl	Albania ² , Bosnia and Herzegovina ³ , Kosovo ⁴ , Montenegro ⁵ , North Macedonia ⁶ , Serbia ⁷ .	Exemption

- ¹ One global volume per tariff quota accessible to imports originating in the beneficiary parties.
- ² Access for wine originating in Albania to the global tariff quota is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Albania. That individual quota is opened under order No 09.1512 and 09.1513.
- ³ Access for wine originating in Bosnia and Herzegovina to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Bosnia and Herzegovina. Those individual quotas are opened under order Nos 09.1528 and 09.1529.
- ⁴ Access for wine originating in Kosovo to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Kosovo. Those individual quotas are opened under order Nos 09.1570 and 09.1572.
- ⁵ Access for wine originating in Montenegro to the global tariff quota, insofar as it concerns products of CN code 2204 21, is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Montenegro. That individual tariff quota is opened under order No 09.1514.
- ⁶ Access for wine originating in North Macedonia to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with North Macedonia. Those individual quotas are opened under order Nos 09.1558 and 09.1559.
- ⁷ Access for wine originating in Serbia to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Serbia. Those individual quotas are opened under order Nos 09.1526 and 09.1527.

	ex 2204 22 95				
	ex 2204 29 93				
	ex 2204 29 94				
	ex 2204 29 95				

ANNEX II

Repealed Regulation with list of the successive amendments thereto

Council Regulation (EC) No 1215/2009
(OJ L 328, 15.12.2009, p. 1)

Regulation (EU) No 1336/2011 of
the European Parliament and of the Council
(OJ L 347, 30.12.2011, p. 1)

Council Regulation (EU) No 517/2013
(OJ L 158, 10.6.2013, p. 1)

Only Article 1(1), point (n),
5th indent, and point 16.5 of the
Annex

Regulation (EU) No 1202/2013 of
the European Parliament and of the Council
(OJ L 321, 30.11.2013, p. 1)

Regulation (EU) 2015/2423 of
the European Parliament and of the Council
(OJ L 341, 24.12.2015, p. 18)

Commission Delegated Regulation (EU) 2017/1464
(OJ L 209, 12.8.2017, p. 1)

Regulation (EU) 2020/2172 of
the European Parliament and of the Council
(OJ L 432, 21.12.2020, p. 7)

ANNEX III

CORRELATION TABLE

Regulation (EC) No 1215/2009	This Regulation
Articles 1 and 2	Articles 1 and 2
Article 3(1)	Article 3(1)
Article 3(4)	Article 3(2)
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 7a(1), (2) and (3)	Article 7(1), (2) and (3)
–	Article 7(4)
Article 7a (4)	Article 7(5)
Article 7a(5)	Article 7(6)
Article 8(1) and (2)	Article 8(1) and (2)
Article 8(4)	Article 8(3)
Article 9	Article 9
Article 10(1)	Article 10(1)
Article 10(3)	Article 10(2)
Articles 11 and 12	Articles 11 and 12
Annex I	Annex I
Annex III	–
Annex IV	–
–	Annex II
–	Annex III