



Brussels, 2.6.2017
C(2017) 3631 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 2.6.2017

amending Council Regulation (EC) No 1215/2009 as regards trade concessions granted to Kosovo* following the entry into force 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

* 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.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The delegated act covers the adjustments which have to be adopted following the granting of trade preferences to Kosovo* under the Stabilisation and Association Agreement (SAA) between the EU and Kosovo which entered into force on 1 April 2016. Until that date, the autonomous trade preferences were the main instrument governing trade relations with Kosovo. Insofar as the SAA grants trade concessions to Kosovo on the same products identified in the autonomous trade preferences, these have to be withdrawn from Regulation (EC) No 1215/2009, in order to avoid the accumulation of trade preferences based on different legal grounds.

Under Regulation (EC) No 1215/2009, Kosovo will henceforth only benefit from the same trade preferences as those granted to the other Western Balkan countries and territories, namely the suspension of all duties provided for under the Common Customs Tariff for products covered by chapters 7 and 8 of the Combined Nomenclature and access to the global wine quota as detailed in Annex I, subject to the prior exhaustion of their individual wine quotas under the SAA regimes.

Similar adjustments were made further to the entry into force of the SAA with the former Yugoslav Republic of Macedonia in 2001¹; with Albania²; with Montenegro³; and with Bosnia and Herzegovina⁴ and Serbia⁴. With the last amendment, Regulation (EU) No 1336/2011 of the European Parliament and of the Council also introduced an empowerment for the Commission to adopt delegated acts concerning the necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the 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 (see Recital 9 of Regulation (EU) No 1336/2011). Accordingly, a delegated act to introduce the necessary adjustments following the granting of bilateral trade preferences to Kosovo is hereby introduced.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

A consultation was carried out in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission. No additional consultations with interested parties or stakeholders, or a preparation of an impact assessment are necessary.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 7(a) and (b) of Regulation (EC) No 1215/2009 sets out that:

The Commission shall be empowered to adopt delegated acts in accordance with Article 7, points a) and b) concerning:

* 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 Commission Regulation (EC) No 2487/2001 (OJ L 335, 19.12.2001, p. 9).

² Council Regulation (EC) No 530/2007 (OJ L 125, 15.05.2007, p. 1).

³ Commission Regulation (EC) No 407/2008 (OJ L 122, 8.5.2008, p. 7).

⁴ Regulation (EU) No 1336/2011 of the European Parliament and of the Council (OJ L 347, 30.12.2011, p. 1).

- (a) necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the TARIC subdivisions;
- (b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in Article 1.

On the basis of the above, the present delegated act includes the adjustment of Article 1 and Article 3(2) to take account of the granting of trade preferences to Kosovo under the Stabilisation and Association Agreement.

Adjustment of Article 1 ensures the continuation of the unilateral preference granted to Kosovo and the other Western Balkan countries and territories in the form of the suspension of all duties for products covered by chapters 7 and 8 of the Combined Nomenclature and the continued access to the global wine tariff rate quota of 30 000 hl. This is needed as under the SAA with Kosovo the preference granted for products of Chapter 7 and 8 of the Combined Nomenclature, applies only to the elimination of the *ad valorem* part of the duty. The global quota on wine does not transfer to any of the bilateral SAAs. Article 3(2) is adjusted to bring to zero the baby-beef tariff-rate quota granted to Kosovo as it is now included in the SAA regime.

It is also necessary to adjust Annex I to reflect the changes of the wine and fisheries bilateral tariff rate quotas that should no longer be applicable to Kosovo under the autonomous regime provided for by Regulation (EC) No 1215/2009 since these concessions have been included in the SAA regime.

Moreover, Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff made changes to the nomenclature for certain fishery and wine products covered by Regulation (EC) No 1215/2009. Therefore, Annex I of Regulation (EC) No 1215/2009 should be amended accordingly.

COMMISSION DELEGATED REGULATION (EU) .../...

of 2.6.2017

amending Council Regulation (EC) No 1215/2009 as regards trade concessions granted to Kosovo* following the entry into force 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 EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1215/2009⁵ 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, and in particular Article 7(a) and (b) thereof,

Whereas:

- (1) Regulation (EC) No 1215/2009 provided for unlimited duty free access to the Union market for nearly all products originating in the countries and territories benefiting from the Stabilisation and Association process to the extent and until such time as bilateral agreements with those countries and territories were concluded.
- (2) The last of such bilateral agreements, 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, was signed⁶ and concluded⁷. It entered into force on 1 April 2016.
- (3) The Stabilisation and Association Agreement establishes a contractual trade regime between the Union and Kosovo. The bilateral trade concessions on the Union side are comparable to the unilateral preferences granted by Regulation (EC) No 1215/2009.
- (4) Pursuant to Article 7 of Regulation (EC) No 1215/2009 the Commission is empowered to adopt delegated acts to introduce the necessary amendments and technical adjustments to Annexes I and II of that Regulation, following amendments to the Combined Nomenclature codes and to the 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 that Regulation.
- (5) The continuation of the unilateral preference granted to all the Western Balkan countries and territories in the form of the suspension of all duties for products covered by Chapters 7 and 8 of the Combined Nomenclature and their access to the global wine tariff rate quota of 30 000 hl should be ensured. Moreover, since the baby-

* 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.

⁵ OJ L 328, 15.12.2009, p. 1. Regulation as last amended by Regulation (EU) 2015/2423 (OJ L 341, 24.12.2015, p. 18).

⁶ OJ L 290, 6.11.2015, p. 4.

⁷ OJ L 71, 16.3.2016, p. 1.

beef tariff-rate quota granted to Kosovo is included in the Stabilisation and Association Agreement with Kosovo, Regulation (EC) No 1215/2009 should be amended accordingly.

- (6) In addition, since Commission Implementing Regulation (EU) 2016/1821⁸ made changes to the Combined Nomenclature for certain fishery and wine products covered by Regulation (EC) No 1215/2009, Annex I to that Regulation should be amended and adjusted accordingly, for reasons of clarity.
- (7) Regulation (EC) No 1215/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1215/2009 is amended as follows:

- (1) Article 1 is replaced by the following:

"Article 1

Preferential arrangements

1. The products originating in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, the customs territory of Kosovo, Montenegro, and in Serbia 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 Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, the customs territory of Kosovo, Montenegro and in Serbia shall continue to benefit from the provisions of this Regulation where so indicated. 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 countries."
- (2) In Article 3, in the first sub-paragraph of paragraph 2, "475 tonnes" is replaced by "0 tonnes".
- (3) Annex I is replaced by the text in the Annex to this Regulation.

⁸ Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 294, 28.10.2016, p. 1).

Article 2

This Regulation shall enter into force on the third 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 Brussels, 2.6.2017

For the Commission
The President
Jean-Claude JUNCKER