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2015/0112 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amending Regulation (EU) No 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

This proposal concerns the amendment of *Regulation (EU) No 19/2013 of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilization mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part*, given that Ecuador joined the Agreement.

Furthermore, the Combined Nomenclature (CN) code for bananas used in the Tariff Elimination Schedule of the Agreement refers to the CN code of 2007. The same code is used in both Regulation (EU) No 19/2013 and Regulation (EU) No 20/2013 of the *European Parliament and of the Council implementing the bilateral safeguard clause and the stabilization mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other*. However, the relevant code for bananas was changed from 1 January 2012. For the sake of clarity, this change should be introduced in both Regulations.

General context

Article 329 of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part provides for an accession possibility of other Member Countries of the Andean Community to the Agreement.

The European Union and Ecuador have concluded negotiations for such accession on 17 July 2014.

Similarly to the Agreement with Colombia and Peru, the Agreement with Ecuador includes a bilateral safeguard clause and a Stabilisation Mechanism for Bananas.

The bilateral safeguard clause provides for the possibility to re-instate the MFN customs duty rate when, as a result of a trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the Union Industry producing the like or directly competitive product. Preferential customs duties can be also be suspended according to the Stabilisation Mechanism for Bananas when a certain annual import volume is reached, until 31 December 2019.

The regulation incorporating in European Union law the safeguard clause and the stabilisation mechanism for Colombia and Peru should thus be amended in order to also include the corresponding elements in the case of Ecuador.

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

This proposal for an amendment is directly derived from the text of the Agreement negotiated with Ecuador. 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 an amendment constitutes the legal instrument for the implementation of the safeguard clause and the banana stabilization mechanism of the Agreement already concluded with Ecuador.

Legal basis

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

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amending Regulation (EU) No 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amending Regulation (EU) No 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

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 procedure,

Whereas:

- (1) The Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part¹ (hereinafter “the Agreement”) signed on 26 June 2012, provides in its Article 329 for an accession of other Member Countries of the Andean Community to the Agreement.
- (2) The European Union and Ecuador have concluded negotiations for such accession on 17 July 2014. A Protocol of Accession by Ecuador to the Agreement (hereinafter “the Protocol of Accession”) was signed on [...] and will be applied provisionally in accordance with its Article [...].
- (3) Following the decision on signature and provisional application of the Protocol of Accession, it is necessary to lay down the procedures to guarantee the effective application of the bilateral safeguard clause and for applying the stabilisation mechanism for bananas as foreseen in the Agreement in respect of Ecuador.
- (4) Furthermore, the Combined Nomenclature (CN) code for bananas used in the Tariff Elimination Schedule of the Agreement refers to the CN code of 2007. The same code is used in both Regulation (EU) No 19/2013² and Regulation (EU) No 20/2013³.

¹ OJ L354, 21/12/2012, p. 3.

² Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (OJ L 17, 19.1.2013, p. 1)

³ Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (OJ L 17, 19.1.2013, p. 13)

However, the relevant code for bananas was changed from 1 January 2012 from 0803 00 19 to 0803 90 10 in order to reflect the compulsory Harmonised System (HS) amendments. For the sake of clarity, this change should be introduced in both Regulation (EU) No 19/2013 and Regulation (EU) No 20/2013 in the relevant part on the stabilisation mechanism for bananas.

- (5) Regulation (EU) No 19/2013 and Regulation (EU) No 20/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 19/2013 is amended as follows:

1. The title is replaced by the following:
"Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia, Ecuador and Peru, of the other part"
2. In point (h) of Article 1, Article 3(1), (3) and (4) and Article 13(4), the words 'Colombia and Peru' are replaced by 'Colombia, Ecuador and Peru'.
3. In point (a) of Article 1, Article 2(1), Article 4(4), Article 5(6) and (11), Article 6(1), Article 7(1), Article 9(1), Article 11 and Article 15 (2), the words 'Colombia or Peru' are replaced by 'Colombia, Ecuador or Peru'.
4. Paragraph 1 of Article 15 is replaced by the following:
"For bananas originating in Colombia, Ecuador or Peru falling under heading 0803 90 10 of the Combined Nomenclature (fresh Bananas, excluding plantains) and listed under the staging category 'BA' in the Tariff Elimination Schedule in the case of Colombia and Peru and staging category 'SP1' in the Tariff Elimination Schedule in the case of Ecuador under the heading 0803 00 19, a stabilisation mechanism shall apply until 31 December 2019."
5. The Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

In Article 15 of Regulation (EU) No 20/2013 paragraph 1 is replaced by the following:

"For bananas originating in Central America falling under heading 0803 90 10 of the Combined Nomenclature (fresh Bananas, excluding plantains) and listed under category 'ST' in the Tariff Elimination Schedule under heading 0803 00 19, a stabilisation mechanism shall apply until 31 December 2019."

Article 3

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from the date of provisional application of the Protocol of Accession. A notice shall be published in the *Official Journal of the European Union* specifying the date of application.

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