



Plenary sitting

A8-0364/2015

14.12.2015

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council implementing the safeguard clause and 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 the Republic of Moldova, of the other part
(COM(2015)0154 – C8-0092/2015 – 2015/0079(COD))

Committee on International Trade

Rapporteur: Helmut Scholz

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council implementing the safeguard clause and 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 the Republic of Moldova, of the other part (COM(2015)0154 – C8-0092/2015 – 2015/0079(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0154),
 - 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 (C8-0092/2015),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinion of the Committee on Agriculture and Rural Development (A8-0364/2015),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Article 9 - paragraph 1

Text proposed by the Commission

1. Where the facts as finally established show that the conditions set out in Article 3(1) of this Regulation are met, the Commission may adopt definitive safeguard measures. Those implementing acts shall be adopted in accordance with

Amendment

1. Where the facts as finally established show that the conditions set out in Article 3(1) of this Regulation are met, ***the Commission shall invite the authorities of Moldova to hold consultations in accordance with Article 160 of the***

the examination procedure referred to in Article 14(4) of this Regulation.

Agreement. Where no satisfactory solution has been reached within 30 days, the Commission may adopt definitive safeguard measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(4) of this Regulation.

Amendment 2

Proposal for a regulation Article 12 - paragraph 2

Text proposed by the Commission

2. The report shall include information about the application of provisional and definitive measures, prior surveillance measures, ***regional surveillance and safeguard measures and*** the termination of investigations and proceedings without measures.

Amendment

2. The report shall, ***inter alia,*** include information about the application of provisional and definitive ***safeguard*** measures, prior surveillance measures, the termination of investigations and proceedings without measures ***and the application of the anti-circumvention mechanism.***

EXPLANATORY STATEMENT

The Association Agreement with Moldova, like the majority of our trade Agreements, includes a bilateral safeguard clause. By this instrument preferences can be temporarily suspended in case their application would result in an unexpected and significant increase of imports causing economic damage to the domestic industry of the importing party (i.e. it is possible to either suspend the further tariff liberalization or reintroduce the 'most favoured nation' customs duty rate). Furthermore, this Agreement also includes a so-called anti-circumvention mechanism, which provides for the possibility to reintroduce the 'most favoured nation' customs duty rate when imports of certain agricultural goods from Moldova exceed a given threshold without due justification of their exact origin.

A regulation of the European Parliament and of the Council is needed to put in place in the EU's internal legislation the necessary instrument to be able to apply the bilateral safeguard clause and the anti-circumvention mechanism.

The Commission proposal under scrutiny is largely based on comparable implementing regulations which were discussed and agreed between the co-legislators for several recent EU free trade agreements currently in force: EU/Korea (regulation published in 2011), EU/Central America (regulation published in 2013) and EU/Colombia and Peru (regulation published in 2013).

The rapporteur points out that the proposed regulation puts into practice the respective provisions of the EU-Moldova Association Agreement to which the European Parliament gave its consent on 13 November 2014. The adoption of the proposed regulation is necessary to enforce the obligations of Moldova stemming from the Agreement in order to protect the EU producers if necessary.

The rapporteur welcomes in particular the reporting obligation of the Commission set out in the proposal, according to which the Commission shall submit to the co-legislators and subsequently make public an annual report on the application and implementation of the regulation. The European Parliament may invite the Commission to an ad hoc meeting of its competent committee to present and explain any issue related to the implementation of the regulation. The rapporteur is of the opinion that such reporting will contribute to parliamentary scrutiny of the implementation of common commercial policy by the Commission and also to greater transparency thereof.

The proposed amendments to the Commission proposal aim at harmonising the wording of the Regulation with that of the EU-Moldova Association Agreement.

Amendment 1 spells-out the obligation of the EU to hold consultations with the Moldovan authorities before the imposition of a definitive safeguard measure. This has been negotiated and agreed between the EU and Moldova in Article 160 of the Association Agreement. It is therefore duly justified that this wording is reflected in the Regulation implementing the Safeguard clause.

Amendment 2 aims at harmonising the terminology of the Commission proposal with that of the Association Agreement. It also spells-out the reporting obligation of the Commission in more detail, so as to expressly mention the application of the anti-circumvention mechanism.

Both amendments are of technical and clarifying nature and should not prevent a swift conclusion of the legislative procedure.

14.10.2015

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council implementing the safeguard clause and 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 the Republic of Moldova, of the other part
(COM(2015)0154 – C8-0092/2015 – 2015/0079(COD))

Rapporteur: Viorica Dăncilă

SHORT JUSTIFICATION

The Association Agreement between the European Union (EU) and the Republic of Moldova ('the Agreement') was signed on 24 June 2014 and has been provisionally applied from 1 September 2014. The European Parliament gave its consent to the conclusion of the Agreement on 13 November 2014.

The Agreement introduces a preferential trade regime - the Deep and Comprehensive Free Trade Area (DCFTA). Council Regulation (EC) No 55/2008 introducing Autonomous Trade Preferences for Moldova will apply in parallel until 31 December 2015 and was recently amended to extend duty-free treatment to Moldovan wine and to grant duty-free quotas for apples, plums and table grapes¹.

The EU is Moldova's biggest trade partner, accounting for 46,4 % of its trade, followed by Russia (21,9 %) and Ukraine (11,8 %). Trade with Moldova accounts for 0,1% of the Union's overall trade. In 2014, following the entry into force of the DCFTA, Union imports from Moldova increased by 20 %, while imports of agricultural goods increased particularly significantly, with a rise of 30 %. Agricultural products account for a significant share of total Union imports from Moldova. Moldova main exports to the Union are oilseeds, fresh and dried walnuts, apple juice, wines and cereals. The main Union exports to Moldova are spirits, food preparations, cigarettes, certain fruits and vegetables including citrus fruits, pork meat and animal feed.

¹ Regulation (EU) 1383/2014 of the European Parliament and of the Council of 18.12.2014

The table below contains statistical data on EU agriculture imports from Moldova in the 2009-2014 period.

EU28 IMPORTS from MOLDOVA	x 1.000.000 €						
	2009	2010	2011	2012	2013	2014	Average 2009-2014
AGRICULTURAL PRODUCTS [mio €]	137	141	256	265	259	347	234
PROCESSED AGRICULTURAL PRODUCTS [mio €]	11	12	16	19	23	22	17
ALL AGRI PRODUCTS [mio €]	148	153	272	284	282	369	251
PROCESSED AGRICULTURAL PRODUCTS / ALL AGRICULTURAL PRODUCTS	7,6%	7,8%	5,7%	6,5%	8,2%	6,0%	6,8%
TOTAL ALL COMMODITIES [mio €]	423	445	644	669	680	885	624
ALL AGRI. PRODUCTS / TOTAL ALL COMMODITIES	34,9%	34,4%	42,3%	42,4%	41,5%	41,6%	40,2%

Like the majority of EU trade agreements, the Agreement includes a bilateral safeguard clause, set out in Articles 165 to 169. A safeguard measure may be imposed where a product originating in the Republic of Moldova is, as a result of the reduction or the elimination of the customs duties on that product, imported into the Union in such increased quantities, in absolute terms or relative to Union production, as to cause or threaten to cause "serious injury" to the Union's industry. It may lead to a suspension of a further reduction in the rate of customs duty on the product concerned or to a re-introduction of the most-favoured-nation ("MFN") rate of customs duty. Such measure may be applied for two years and exceptionally extended for a further two years. Chapter I of the proposal contains detailed provisions on the initiation of proceedings, investigations, prior surveillance measures, imposition of provisional and definitive safeguard measures and the duration and review of these measures.

Furthermore, the Agreement also includes in Article 148 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 Moldova (listed in Annex XV-C) exceed a given threshold without due justification of their exact origin. Anti-circumvention clauses are important to avoid imports into the Union of non-Moldovan products via Moldova using the advantages of the Agreement to circumvent "rules of origin" requirements. Chapter II of the proposal (Article 13) lays down the procedures for the application of this mechanism, which is without prejudice to the application of any measures defined in Chapter I (safeguard measures). However, measures taken pursuant to the provisions of both chapters cannot be applied simultaneously to the same products.

The rapporteur welcomes and supports the Commission proposal, since it is necessary to incorporate into the law of the Union the instruments required for the application of temporary safeguards in case of an increase in imports causing economic damage to the Union's market and its producers.

The substantive parts of the proposed implementing regulation mirror the relevant parts of the negotiated text of the Agreement, Regulation (EU) 2015/478 of 11 March 2015 on the

common rules for imports and, indirectly, the provisions of the WTO Agreement on Safeguards. The procedural parts are essentially based on existing implementing regulations which were discussed and agreed among the three institutions for each of the recent free trade agreements currently in force: Korea (Regulation (EU) No 511/2011 of 11 May 2011), Central America (Regulation (EU) No 20/2013 of 15 January 2013) and Colombia and Peru (Regulation (EU) No 19/2013 of 15 January 2013).

However, the rapporteur notes that, from a practical point of view, recourse to the bilateral safeguard clause appears to be rather problematic, since both the substantive¹ and procedural requirements are difficult to demonstrate and to apply. This may explain the fact that this type of clause has never been used by the Union, despite its inclusion in several trade agreements.

The Committee on Agriculture and Rural Development calls on the Committee on International Trade, as the committee responsible, to propose that Parliament adopts its position at first reading taking over the Commission proposal.

¹ Such as the concept of "serious injury", defined in Article 4 of the WTO Agreement on safeguards as a "significant overall impairment in the position of domestic producers" and included with an identical definition in the text of the Agreement and on Article 2.d) of the current proposal.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Safeguard clause and the anti-circumvention mechanism providing for the temporary suspension of tariff preferences of the Association Agreement between the EU and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part
References	COM(2015)0154 – C8-0092/2015 – 2015/0079(COD)
Committee responsible Date announced in plenary	INTA 27.4.2015
Opinion by Date announced in plenary	AGRI 27.4.2015
Rapporteur Date appointed	Viorica Dăncilă 19.5.2015
Date adopted	13.10.2015
Result of final vote	+: 36 –: 3 0: 0
Members present for the final vote	John Stuart Agnew, Clara Eugenia Aguilera García, Eric Andrieu, Richard Ashworth, Paul Brannen, Daniel Buda, Nicola Caputo, Viorica Dăncilă, Michel Dantin, Paolo De Castro, Albert Deß, Herbert Dorfmann, Norbert Erdős, Edouard Ferrand, Luke Ming Flanagan, Beata Gosiewska, Anja Hazekamp, Esther Herranz García, Jan Huitema, Peter Jahr, Jarosław Kalinowski, Zbigniew Kuźmiuk, Philippe Loiseau, Giulia Moi, Ulrike Müller, James Nicholson, Maria Noichl, Marijana Petir, Laurențiu Rebegea, Jens Rohde, Bronis Ropė, Jasenko Selimovic, Lidia Senra Rodríguez, Czesław Adam Siekierski, Marc Tarabella, Janusz Wojciechowski
Substitutes present for the final vote	Ivan Jakovčić, Norbert Lins, Momchil Nekov, Stanislav Polčák

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Safeguard clause and the anti-circumvention mechanism providing for the temporary suspension of tariff preferences of the Association Agreement between the EU and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part		
References	COM(2015)0154 – C8-0092/2015 – 2015/0079(COD)		
Date submitted to Parliament	14.4.2015		
Committee responsible Date announced in plenary	INTA 27.4.2015		
Committees asked for opinions Date announced in plenary	AFET 27.4.2015	ITRE 27.4.2015	AGRI 27.4.2015
Not delivering opinions Date of decision	AFET 22.6.2015	ITRE 7.5.2015	
Rapporteurs Date appointed	Helmut Scholz 13.7.2015		
Discussed in committee	22.9.2015	19.11.2015	10.12.2015
Date adopted	10.12.2015		
Result of final vote	+: -: 0:	28 0 0	
Members present for the final vote	David Borrelli, David Campbell Bannerman, Santiago Fisas Aixelà, Karoline Graswander-Hainz, Ska Keller, Jude Kirton-Darling, Gabrielius Landsbergis, Bernd Lange, Emmanuel Maurel, Emma McClarkin, Godelieve Quisthoudt-Rowohl, Inmaculada Rodríguez-Piñero Fernández, Marietje Schaake, Helmut Scholz, Iuliu Winkler		
Substitutes present for the final vote	Klaus Buchner, Dita Charanzová, Nicola Danti, Sander Loones, Lola Sánchez Caldentey, Ramon Tremosa i Balcells, Marita Ulvskog, Wim van de Camp, Jarosław Wałęsa		
Substitutes under Rule 200(2) present for the final vote	Edward Czesak, Eleonora Evi, Maurice Ponga, Flavio Zanonato		
Date tabled	14.12.2015		