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REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (COM(2010)0054 – C7-0042/2010 – 2010/0036(COD))

Committee on International Trade

Rapporteur: Vital Moreira

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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (COM(2010)0054 – C7-0042/2010 – 2010/0036(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0054),
 - 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 (C7-0042/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0243/2010),
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 the 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 – amending act
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in order to adopt:
(a) appropriate measures where imports of agricultural and fishery products cause serious disturbance to Union markets and

*their regulatory mechanisms,
(b) amendments and technical
adjustments necessary following
amendments to the Combined
Nomenclature code and to the TARIC
subdivisions, and necessary adjustments
following the conclusion of the other
agreements between the Union and the
countries and territories referred to in
Article 1.*

*It is of particular importance that the
Commission carry out appropriate
consultations during its preparatory work,
including at expert level.*

Justification

This recital establishes a reference to Article 3, paragraph 4, and Article 7 of regulation 1215/2009. In both articles, reference is made to delegated acts, whose procedures are established in Articles 7a, 7b, 7c, and 7d.

Amendment 2

Proposal for a regulation – amending act Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) This Regulation was submitted to the European Parliament and the Council at a time when the review of instruments dealing with implementing powers pursuant to Article 291(2) of the Treaty on the Functioning of the European Union had not yet been initiated. The decision-making process provided for in Regulation (EC) No 1215/2009 will be automatically aligned to the provisions of the Regulation laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (COM(2010)0083 - C7-0073/2010 – 2010/0051(COD)).

Justification

This recital establishes a reference to the necessary alignment of the decision making procedures after the entry into force of the Regulation on laying down the rules and general

principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

Amendment 3

Proposal for a regulation – amending act

Article 1 – point 2 a (new)

Regulation (EC) No 1215/2009

Article 2 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

(2) In Article 2 paragraph 2, subparagraph 2 is replaced by the following:

In the event of non-compliance in that respect, the European Parliament and the Council may take appropriate measures in accordance with the ordinary legislative procedure.

Justification

Article 2, paragraph 2, subparagraph 2 provides for measures to change or to interrupt the entitlement to benefit from the preferential arrangements introduced by Article 1 of regulation 1215/2009. These measures are broad in scope, they may lead to a partial suspension of the preferential arrangements, and would thus more than only amend the basic act in question.

Amendment 4

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) No 1215/2009

Article 3 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Any request for import within this quota shall be accompanied by an authenticity certificate issued by the competent authorities of the exporting territory and attesting that the goods originate in the territory concerned and correspond to the definition in Annex II to this Regulation. This certificate shall be drawn up by the Commission in accordance with the procedure referred to in **Article 195(2) of**

Any request for import within this quota shall be accompanied by an authenticity certificate issued by the competent authorities of the exporting territory and attesting that the goods originate in the territory concerned and correspond to the definition in Annex II to this Regulation. This certificate shall be drawn up by the Commission in accordance with the **advisory** procedure referred to in **Articles 3**

Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

and 7 of Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

Justification

The amending regulation proposes to amend Article 3(2) of regulation 1215/2009. This provision provides for the competent authorities of the exporting countries to issue an authenticity certificate in cases of requests for imports within the quota. The Commission "shall draw up that certificate". While the Regulation is not very clear, the Rapporteur's understanding is that the Commission prepares some kind of templates for the certificate. Given that the template is more a tool for implementation rather than a measure of general application which would "supplement" or "amend" the basic act, it is recommended to consider them as implementing acts according to Article 291 TFEU.

Amendment 5

Proposal for a regulation – amending act

Article 1 – point 4 a (new)

Regulation (EC) No 1215/2009

Article 3 – paragraph 4

Text proposed by the Commission

Amendment

(4a) In Article 3, paragraph 4 is replaced by the following:

4. Notwithstanding other provisions of this Regulation, and 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 delegated acts in order to be able to take appropriate measures in accordance with Article 7a and subject to the conditions of Articles 7b, 7c and 7d .

Justification

Article 3, paragraph 4 of regulation 1215/2009 applies for measures which the Commission may take should imports of agriculture and fishery products cause serious disturbance to the EU markets and their regulatory mechanism. The article provides a very broad discretion for the Commission, and the measure could lead to an effective "amendment" of regulation 1215/2009. Delegated acts are the appropriate measure, since the required criteria of Article

290 TFEU (measures of "general application" and "amendment" of the basic act) would concur.

Amendment 6

Proposal for a regulation – amending act

Article 1 – point 5

Regulation (EC) No 1215/2009

Article 4

Text proposed by the Commission

The detailed rules for implementing the tariff quota for "baby beef" products shall be determined by the Commission in accordance with the procedure referred to in **Article 195(2)** of Council **Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)**.

Amendment

The detailed rules for implementing the tariff quota for "baby beef" products shall be determined by the Commission in accordance with the **advisory** procedure referred to in **Articles 3 and 7** of Council **Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission**.

Justification

With regard to "baby beef", Annex II of the amending regulation provides a definition of "baby beef products" and Article 3(2) of the main regulation defines the customs duties applicable to its import and the volume of the annual tariff quota. Accordingly, the Commission provides the implementing tools/uniform conditions for the Member States to be in a position to properly implement the quota/customs duties. The intention of the detailed rules is to provide a system for implementation, which the Commission should adopt in accordance with the advisory procedure.

Amendment 7

Proposal for a regulation – amending act

Article 1 – point 5 a (new)

Regulation (EC) No 1215/2009

Article 7

Text proposed by the Commission

Amendment

(5a) Article 7 is replaced by the following:

Article 7

Conferral of powers

The Commission shall adopt delegated acts in accordance with Article 7a and

subject to the conditions of Articles 7b, 7c and 7d in order to adopt the provisions necessary for the application of this Regulation, other than those provided for in Article 4, in particular:

(a) amendments and technical adjustments necessary following amendments to the Combined Nomenclature codes and to the TARIC subdivisions;

(b) necessary adjustments following the conclusion of the other agreements between the Union and the countries and territories referred to in Article 1.

Justification

Article 7 provides for the Commission to introduce "amendments and technical adjustments necessary following amendments to the Combined Nomenclature code and to the TARIC subdivisions" and "necessary adjustments following the conclusion of the other agreements between the Community and the countries and territories referred to in Article 1". The Rapporteur assumes that, in practice, this provision implies that the Commission can amend the annexes as well as the articles of the regulation themselves. Since the result of these measures is the production of "amendments" to the basic regulation, in particular its annexes, "delegated acts" should apply.

Amendment 8

Proposal for a regulation – amending act

Article 1 – point 5 b (new)

Regulation (EC) No 1215/2009

Article 7 a (new)

Text proposed by the Commission

Amendment

(5b) A new article 7a is inserted

Article 7a

Exercise of the delegation

1. The power to adopt the delegated acts referred to in Articles 3(4) and 7 shall be conferred on the Commission until 31 December 2015. The Commission shall make a report in respect of the delegated powers not later than six months before the end of that period.

2. As soon as it adopts a delegated act, the

Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 7b and 7c.

4. Where, cases of urgency so require, the procedure provided for in Article 7d shall apply.

Justification

This article establishes the rules of the exercise of delegation.

Amendment 9

Proposal for a regulation – amending act

Article 1 – point 5 c (new)

Regulation (EC) No 1215/2009

Article 7 b (new)

Text proposed by the Commission

Amendment

(5c) A new article 7b is inserted

Article 7b

Revocation of the delegation

1. The delegation of powers referred to in Article 7a may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date

specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Justification

This article establishes a procedure for the revocation of a delegation.

Amendment 10

Proposal for a regulation – amending act

Article 1 – point 5 d (new)

Regulation (EC) No 1215/2009

Article 7 c (new)

Text proposed by the Commission

Amendment

(5d) A new article 7c is inserted

Article 7c

Objection to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council this period shall be extended by two months.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Justification

This article establishes the rules for the objection to delegated acts.

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 5 e (new)

Regulation (EC) No 1215/2009

Article 7 d (new)

Text proposed by the Commission

Amendment

(5e) A new article 7d is inserted

Article 7d

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and apply as long as no objection is expressed in accordance with paragraph

2. The notification of a delegated act adopted under this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. The European Parliament or the Council may object to a delegated act adopted under this Article in accordance with the procedure referred to in Article 7d(1). In such a case, the act shall cease to apply. The institution which objects to such a delegated act shall state its reasons therefor.

Justification

This article establishes rules for delegated acts adopted under an urgency procedure.

EXPLANATORY STATEMENT

By Regulation (EC) No 2007/2000¹, the European Union has granted exceptional unlimited duty-free access to the EU market for nearly all products originating in the countries and territories benefiting from the Stabilisation and Association process. The key aim of these measures is to revitalise the Western Balkan economies through a privileged access to the EU market. In turn, economic development is to foster political stability in the entire region. As Council Regulation (EC) No 2007/2000 was substantially amended several times, it was codified by Council Regulation (EC) No 1215/2009 of 30 November 2009².

The trade preferences were granted for a period ending on 31 December 2010 and currently apply to Bosnia and Herzegovina, Serbia, and Kosovo as defined by UNSCR 1244/99 for all the products under the scope of Regulation (EC) No 1215/2009. The products originating in Albania, in the Republic of Croatia, in the former Yugoslav Republic of Macedonia or in Montenegro continue to benefit from the provisions of Regulation (EC) No 1215/2009 when so indicated or from any measures provided in Regulation (EC) No 1215/2009 which are more favourable than the trade concessions provided for in the framework of bilateral agreements between the European Union and these countries.

Given that specific Interim Agreements on trade and trade-related matters / Stabilisation and Association Agreements (SAAs) grant trade concessions to Bosnia and Herzegovina and Serbia on the same products identified in the autonomous trade preferences, these concessions have to be withdrawn from the Council Regulation (EC) No 1215/2009. These concern the preferential tariff quotas for baby beef, sugar and sugar products, certain wines, as well as for certain fishery products.

The European Parliament in its Resolution on 26 November 2009 Enlargement strategy 2009 concerning the countries of the Western Balkans Iceland and Turkey called on the Commission to make every possible effort to mitigate the effect of the economic crisis on the Western Balkans.

The termination of the trade preferences would take from the beneficiaries an objective economic advantage in their trade with the EU. This could have negative consequences on the overall economic performances of Western Balkans, with consequent negative repercussions on their domestic reform and transition processes. Moreover, their economic recovery could be seriously jeopardised.

That is why the Rapporteur strongly supports the amendment of certain elements of Regulation (EC) No 1215/2009 in order to permit the extension of its validity to 31 December 2015 and make certain adjustments consequent to the entry into force of bilateral agreements with Bosnia and Herzegovina and Serbia.

Delegated and Implementing Acts

Article 2, paragraph 2, subparagraph 2 of the basic Regulation provides for measures to change or to interrupt the entitlement to benefit from the preferential arrangements introduced

¹ OJ L 240, 23.9.2000, p. 1.

² OJ L 328, 15.12.2009, p. 1.

by Article 1 of regulation 1215/2009. These measures are broad in scope, they may lead to a partial suspension of the preferential arrangements, and would thus more than only amend the basic act in question. In the original version of the basic act, Article 2, paragraph 2, subparagraph 2, provides for the Council to adopt "the appropriate measures by a qualified majority vote, on the basis of a Commission proposal". This is a far-reaching provision that is only understandable in the historic context of the date of negotiation and adoption of the basic act. Hence, until 1 December 2009, the Council, on the basis of ex-Article 133 TEC, adopted according to this rule without consulting the European Parliament. Since the entry into force of the Lisbon Treaty, the European Parliament and the Council act jointly in accordance with the ordinary legislative procedure, to adopt measures defining the framework for implementing the common commercial policy. Article 2, paragraph 2, subparagraph 2 should therefore be aligned to this new context.

Regulation (EC) No 1215/2009 contains, in Articles 3 and 7, certain implementing powers, which are based on Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission.

The amending regulation proposes to amend Article 3(2) of regulation 1215/2009. This provision provides for the competent authorities of the exporting countries to issue an authenticity certificate in cases of requests for imports within the quota. The Commission "shall draw up that certificate". While the Regulation is not very clear, the Rapporteur's understanding is that the Commission prepares some kind of templates for the certificate. Given that the template is more a tool for implementation rather than a measure of general application which would "supplement" or "amend" the basic act, it is not recommendable to shift this measure towards a delegated act according to Article 290 TFEU, but to consider them as implementing acts according to Article 291 TFEU.

Article 3(4) of regulation 1215/2009 applies for measures which the Commission may take should imports of agriculture and fishery products cause serious disturbance to the EU markets and their regulatory mechanism. The article provides a very broad discretion for the Commission, and the measure could lead to an effective "amendment" of regulation 1215/2009. For example: The Commission could reduce the quota established in the previous subparagraphs of Article 3. Therefore delegated acts are the more appropriate measure since the required criteria of Article 290 TFEU (measures of "general application" and "amendment" of the basic act) would concur.

The amending regulation also proposes to amend Article 4. With regard to "baby beef", Annex II of the amending regulation provides a definition of "baby beef products" and Article 3(2) of the main regulation defines the customs duties applicable to its import and the volume of the annual tariff quota. Accordingly, the Commission provides the implementing tools/uniform conditions for the Member States to be in a position to properly implement the quota/customs duties. The intention of the detailed rules is to provide a system for implementation, which the Commission should adopt in accordance with the advisory procedure.

Article 7 provides for the Commission to introduce "amendments and technical adjustments necessary following amendments to the Combined Nomenclature code and to the TARIC subdivisions" and "necessary adjustments following the conclusion of the other agreements between the Community and the countries and territories referred to in Article 1". In practice,

the Rapporteur believes these imply that the Commission can amend the annexes as well as the articles of the regulation themselves. Since the result of these measures are "amendments" to the basic regulation, in particular its annexes, "delegated acts" should apply.

In order to establish rules for the execution, control and eventual revocation of delegated acts, Articles 7a, 7b, 7c, and 7d have been inserted.

PROCEDURE

Title	Amendment of Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the EU's Stabilisation and Association process		
References	COM(2010)0054 – C7-0042/2010 – 2010/0036(COD)		
Date submitted to Parliament	22.2.2010		
Committee responsible Date announced in plenary	INTA 11.3.2010		
Committee(s) asked for opinion(s) Date announced in plenary	AFET 11.3.2010		
Not delivering opinions Date of decision	AFET 17.3.2010		
Rapporteur(s) Date appointed	Vital Moreira 19.4.2010		
Discussed in committee	28.4.2010	1.6.2010	22.6.2010
Date adopted	30.8.2010		
Result of final vote	+: 20 -: 0 0: 1		
Members present for the final vote	William (The Earl of) Dartmouth, Kader Arif, Daniel Caspary, Marielle De Sarnez, Christofer Fjellner, Metin Kazak, Bernd Lange, David Martin, Emilio Menéndez del Valle, Vital Moreira, Niccolò Rinaldi, Tokia Saïfi, Helmut Scholz, Robert Sturdy, Keith Taylor, Iuliu Winkler, Pablo Zalba Bidegain		
Substitute(s) present for the final vote	George Sabin Cutaş, Carl Schlyter, Jarosław Leszek Wałęsa		
Substitute(s) under Rule 187(2) present for the final vote	Edit Bauer		