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*Plenary sitting*

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**A8-0193/2017**

10.5.2017

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on the introduction of temporary autonomous trade measures for Ukraine  
supplementing the trade concessions available under the Association  
Agreement  
(COM(2016)0631 – C8-0392/2016 – 2016/0308(COD))

Committee on International Trade

Rapporteur: Jarosław Wałęsa

### ***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 on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement (COM(2016)0631 – C8-0392/2016 – 2016/0308(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0631),
  - 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 (C8-0392/2016),
  - 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 (A8-0193/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a decision**

##### **Recital 2**

*Text proposed by the Commission*

(2) ***In view of*** the economic reform efforts undertaken by Ukraine, and in order to support the development of closer economic relations with the ***European Union***, it is appropriate to increase the trade flows concerning the import of certain agricultural products and to grant concessions in the form of autonomous trade measures in selected industrial

*Amendment*

(2) ***With a view to enhancing*** the economic ***and political*** reform efforts undertaken by Ukraine, and in order to support ***and accelerate*** the development of closer economic relations with the ***Union***, it is appropriate ***and necessary*** to increase the trade flows concerning the import of certain agricultural products and to grant concessions in the form of autonomous

products in line with the acceleration of the elimination of customs duties on trade between the *European* Union and Ukraine.

trade measures in selected industrial products in line with the acceleration of the elimination of customs duties on trade between the Union and Ukraine.

## **Amendment 2**

### **Proposal for a regulation**

#### **Recital 3**

*Text proposed by the Commission*

(3) *The* autonomous trade measures *would* be granted *in* the form of zero-tariff quotas for products listed in Annexes I and II in addition to the preferential tariff-rate quotas set out in the Agreement, and the partial or full removal of import duties on industrial products listed in Annex III;

*Amendment*

(3) *After the publication by the Commission of its analysis on the potential impact of this Regulation, which should consider the potential final beneficiaries of the autonomous trade measures contained in this Regulation and focus particularly on small and medium-sized producers in Ukraine, the autonomous trade measures should be granted for products that are assessed to be beneficial in light of that analysis. Those autonomous trade measures should take the form of zero-tariff quotas for products listed in Annexes I and II in addition to the preferential tariff-rate quotas set out in the Association Agreement, and the partial or full removal of import duties on industrial products listed in Annex III.*

#### *Justification*

*The Commission has carried out an investigation into the impacts of the measures it proposes, presented orally in Committee, although this was not a formal sustainability impact assessment as is usually carried out. In the interest of fairness, transparency and democratic law-making, and to allow informed decisions to be made by the co-legislators, the details of that analysis should be published.*

## **Amendment 3**

### **Proposal for a regulation**

#### **Recital 4**

*Text proposed by the Commission*

(4) In order to prevent any risk of fraud, the entitlement to benefit from the

*Amendment*

(4) In order to prevent any risk of fraud, the entitlement to benefit from the

additional zero-tariff quotas should be conditional on the compliance by Ukraine with the relevant rules of origin of products concerned and the procedures related thereto as well as involvement in close administrative cooperation with the **European Union** as provided for by **the Agreement**;

additional zero-tariff quotas **for products listed in Annexes I and II and the partial or full removal of import duties on industrial products listed in Annex III** should be conditional on the compliance by Ukraine with **all** the relevant **conditions for obtaining benefits under the Association Agreement, including the** rules of origin of products concerned and the procedures related thereto as well as involvement in close administrative cooperation with the Union as provided for by **that Agreement**.

#### *Justification*

*Rules of origin and other conditions identified in the Agreement must be met for all products, not only agricultural products listed in Annexes I & II, but industrial products listed in Annex III as well.*

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Recital 9**

###### *Text proposed by the Commission*

(9) Article 2 of the Association Agreement provides that the respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law, constitute essential elements of that Agreement. It is appropriate to introduce the possibility to temporarily suspend the preferences in case of failure to respect the fundamental principles of human rights, democracy and the rule of law by Ukraine.

###### *Amendment*

(9) **Articles 2 and 3** of the Association Agreement **provide that** respect for democratic principles, human rights, and fundamental freedoms and the principle of the rule of law, **as well as efforts to combat corruption and organised crime, and measures to promote sustainable development and effective multilateralism,** constitute essential elements of **relations with Ukraine, which are governed by that Agreement**. It is appropriate to introduce the possibility to temporarily suspend the preferences in **the** case of failure **by Ukraine** to respect the **general** principles of **the Association Agreement, as has been done in other association agreements signed by the Union**.

## Amendment 5

### Proposal for a regulation Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

**(9a) The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Agreement should include a detailed assessment of the implementation of the temporary autonomous trade measures provided for in this Regulation.**

## Amendment 6

### Proposal for a regulation Article 2 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

Entitlement to benefit from the tariff-rate quotas introduced by Article 1 shall be subject to:

Entitlement to benefit from the tariff-rate quotas **and preferential customs duties on importation** introduced by Article 1 shall be subject to:

#### *Justification*

*Rules of origin and other conditions identified in the Agreement must be met for all products, not only agricultural products listed in Annexes I & II, but industrial products listed in Annex III as well.*

## Amendment 7

### Proposal for a regulation Article 2 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) compliance with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement, and notably in Protocol I concerning the definition of the concept of "originating products" and methods of administrative co-operation, and in Protocol II on mutual administrative

(a) compliance with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement, and notably in Protocol I concerning the definition of the concept of "originating products" and methods of administrative co-operation, and in Protocol II on mutual administrative



assistance in customs matters;

assistance in customs matters; *as regards products manufactured in, or shipped from, territory not under the effective control of the Government of Ukraine, the submission of a movement certificate EUR.1, as referred to in Article 16(1)(a) of Protocol I to the Association Agreement, which shall be issued by the customs authorities of the Government of Ukraine, after having carried out an inspection of the exporter's accounts at the exporter's premises and any other checks considered appropriate, in accordance with Articles 17(5) and Article 33 of that Protocol, including assessing whether there are reasonable grounds to suspect that economic operators benefiting from the temporary autonomous trade measures are undermining the fight against corruption or are engaged in illegal economic activities;*

## Amendment 8

### Proposal for a regulation

#### Article 2 – paragraph 1 – point b

##### *Text proposed by the Commission*

(b) abstention by Ukraine from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union or from increasing existing levels of duties or charges or from introducing any other restrictions from the day of the entry into force of this Regulation;

##### *Amendment*

(b) abstention by Ukraine from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union or from increasing existing levels of duties or charges or from introducing any other restrictions, ***including discriminatory behind-the-border regulations***, from the day of the entry into force of this Regulation;

##### *Justification*

*As the article seems to focus on border and fiscal measures, it should be clarified that discriminatory regulations can also trigger revocation of autonomous trade measures.*

## Amendment 9

### Proposal for a regulation

#### Article 2 – paragraph 1 – point c

*Text proposed by the Commission*

(c) respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law provided for in Article 2 of the Association Agreement.

*Amendment*

(c) respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law ***as well as continued and sustained efforts with regard to the fight against corruption and illegal activities*** provided for in ***Articles 2, 3 and 22*** of the Association Agreement.

## Amendment 10

### Proposal for a regulation

#### Article 2 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) continued respect for obligations to cooperate on matters related to employment, social policy and equal opportunities in accordance with Chapter 13 of Title IV (Trade and Sustainable Development) and Chapter 21 of Title V (Cooperation on employment, social policy and equal opportunities) of the Association Agreement, and the goals set out in Article 420 thereof.***

## Amendment 11

### Proposal for a regulation

#### Article 3 – paragraph 1

*Text proposed by the Commission*

Where the Commission finds that there is sufficient evidence of failure to comply with the conditions set out in Article 2 it may suspend in whole or in part the preferential arrangements provided for in this Regulation, in accordance with the examination procedure referred to in Article 5(2).

*Amendment*

Where the Commission finds that there is sufficient evidence of failure to comply with the conditions set out in Article 2 ***of this Regulation***, it may suspend in whole or in part the preferential arrangements provided for in this Regulation, in accordance with the examination procedure referred to in Article 5(2).

## Amendment 12

### Proposal for a regulation Article 3 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Where a Member State requests that the Commission suspend any of the preferential arrangements on the basis of failure to comply with the conditions set out in Article 2(b), the Commission shall provide a reasoned opinion within two months of such request on whether the claim of failure to comply is substantiated. If the Commission concludes that it is, it shall initiate the procedure referred to in the first paragraph of this Article.***

*Justification*

*As historically the Commission has been reluctant to introduce trade restrictive measures, once liberalising measures have already been introduced, Member States' position vis-à-vis the Commission should be strengthened.*

## Amendment 13

### Proposal for a regulation Article 4 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Where a product originating in Ukraine is imported on terms which cause, or threaten to cause, serious difficulties to a **Community** producer of like or directly competing products, Common Customs Tariff duties on such product may be reintroduced at any time **by the Council acting by qualified majority on a proposal from the Commission.**

1. Where a product originating in Ukraine is imported on terms which cause, or threaten to cause, serious difficulties to a **Union** producer of like or directly competing products, Common Customs Tariff duties on such product may be reintroduced at any time.

*Justification*

*The requirement in safeguard proceedings to act by qualified majority has resulted in making safeguard mechanisms completely unusable. The safeguard clause is supposed to provide real, not theoretical, protection to industry when it faces unusually difficult circumstances. Introducing simple majority vote to safeguard proceedings will allow them to be used by the*

industry. The Commission retains control over the result, as it is the institution that conducts the proceedings and proposes the outcome.

#### **Amendment 14**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission shall closely monitor the impact of this Regulation on Union producers with regard to the products listed in Annex I and II, including with regard to prices on the Union market and taking into account relevant available information on Union producers, such as market share, production, stocks, production capacities and capacity utilisation rates.***

#### **Amendment 15**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. At the request of a Member State or on the Commission's initiative, the Commission shall take a formal decision to initiate an investigation within a reasonable period of time. Where the Commission decides to initiate an investigation, it shall publish a notice in the Official Journal of the European Union announcing the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period, which shall not exceed four months from the date of publication of the notice, within which interested parties may make their views known in writing

2. At the request of a Member State, ***any legal person or any association not having legal personality, acting on behalf of Union industry, meaning all or a major proportion of Union producers of like or directly competing products, or on the Commission's own initiative, if it is apparent to the Commission that there is sufficient prima facie evidence,*** the Commission shall take a formal decision to initiate an investigation within a reasonable period of time. ***For the purposes of this Article, 'major proportion' means Union producers whose collective output constitutes more than 50 % of the total Union production of the like or directly competing products produced by that portion of the Union industry expressing either support for or opposition to the request and no less than 25 % of total***

*production of the like or directly competing products produced by the Union industry.* Where the Commission decides to initiate an investigation, it shall publish a notice in the Official Journal of the European Union announcing the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period, which shall not exceed four months from the date of publication of the notice, within which interested parties may make their views known in writing.

#### *Justification*

*Like in other trade defence proceedings, EU industry should have the ability to request the Commission for an initiation of a safeguard proceeding.*

#### **Amendment 16**

##### **Proposal for a regulation Article 4 – paragraph 6**

###### *Text proposed by the Commission*

6. The Commission shall take a decision within three months, in accordance with the procedure referred to in Article 5. Such decision shall enter into force within one month as from its publication.

###### *Amendment*

6. The Commission shall take a decision within three months, in accordance with the procedure referred to in Article 5. Such decision shall enter into force within one month as from its publication. ***The Common Customs Tariff duties shall be reintroduced for as long as necessary to counteract the deterioration in the economic and/or financial situation of Union producers, or for as long as the threat of such deterioration persists. The period of reintroduction shall not exceed one year, unless it is extended in duly justified circumstances. Where the facts as finally established show that the conditions set out in Article 4(1) are not met, the Commission shall adopt an implementing act terminating the investigation and proceedings in accordance with the examination procedure referred to in Article 5(2).***

## Amendment 17

### Proposal for a regulation Article 5 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 5a*

*Assessment of the implementation of the autonomous trade measures*

*The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Agreement shall include a detailed assessment of the implementation of the temporary autonomous trade measures provided for in this Regulation and shall include, insofar as appropriate, an assessment of the social impact of those measures in Ukraine and in the Union. Information on the utilisation of agriculture-related tariff-rate quotas shall be made available via websites of the Commission.*

## Amendment 18

### Proposal for a regulation Annex I – table 1 – row 4

*Text proposed by the Commission*

<i>09.6752</i>	<i>2002</i>	<i>Tomatoes prepared or preserved otherwise than by vinegar or acetic acid</i>		<i>5 000</i>
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*Amendment*

*deleted*

## Amendment 19

### Proposal for a regulation Annex II – table 1 – row 2

*Text proposed by the Commission*

<i>Common wheat, spelt and</i>	<i>1001 99 00, 1101 00 15,</i>	<i>100 000 tons/year</i>
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<i>meslin, flour, groats, meal and pellets</i>	<i>1101 00 90, 1102 90 90, 1103 11 90, 1103 20 60</i>	
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*Amendment*

*deleted*

*Justification*

*Trade statistics show that export capacity of Ukraine's industry in these product groups is already substantial. Additional support is not likely to provide any impetus for the needed export diversification, and therefore is not recommended. Tariff rate quota on wheat from Ukraine amounts to 950 thousand tonnes while in the recent years, the actual import to the EU was 3-4 million tonnes/year. This proves the fact that, even without preferential duties, exporting wheat from Ukraine is already competitive and contributes to low crop prices in the EU. Furthermore, the EU tillage sector recently has been hit by serious crises, which, in conjunction with record low harvests, is extremely worrying in the context of several Member States. Opposite situation (record high harvests) is being observed in other parts of the world (US, Canada, Brazil, Argentina).*

**Amendment 20**

**Proposal for a regulation  
Annex II – row 3**

*Text proposed by the Commission*

Maize, other than seed, flour, groats, meal, pellets and grains	1005 90 00, 1102 20, 1103 13, 1103 20 40, 1104 23	<b>650 000 tons/year</b>
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*Amendment*

Maize, other than seed, flour, groats, meal, pellets and grains	1005 90 00, 1102 20, 1103 13, 1103 20 40, 1104 23	<b>650 000 050 kilograms/year</b>
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*Justification*

*Trade statistics show that export capacity of Ukraine's industry in these product groups is already substantial. Additional support is not likely to provide any impetus for the needed export diversification, and therefore is not recommended. Furthermore, the EU tillage sector recently has been hit by serious crises, which, in conjunction with record low harvests is extremely worrying in the context of several Member States. Opposite situation (record high harvests) is being observed in other parts of the world (US, Canada, Brazil, Argentina).*

## Amendment 21

### Proposal for a regulation Annex III – table 1 – row 3

*Text proposed by the Commission*

<b>3102 10 10</b>	<b><i>Urea, whether or not in aqueous solution, containing more than 45% by weight of nitrogen on the dry anhydrous product (excl. that in pellet or similar forms, or in packages with a gross weight not exceeding 10 kg).</i></b>	<b>3%</b>
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*Amendment*

*deleted*

## EXPLANATORY STATEMENT

### Background

The Deep and Comprehensive Free Trade Area (DCFTA), the economic and trade pillar of the Association Agreement (AA) between the European Union and Ukraine, has been provisionally applied since 1 January 2016. The DCFTA establishes a free trade area for trade in goods over a transitional period of a maximum of ten years.

The tariff liberalisation of the DCFTA is asymmetrical, as the EU reduces or abolishes its customs duties faster than Ukraine. This asymmetrical liberalisation started already before the application of the DCFTA, with the temporary unilateral trade preferences offered under the EU's *Regulation (EU) No 374/2014 on the reduction or elimination of customs duties on goods originating in Ukraine*, which entered into force on 23 April 2014. In 2014, the solution to grant autonomous trade measures (ATMs) was adopted in the context of the extremely difficult security, political and economic situation in Ukraine. These measures were intended to expire by 1 November 2014 at the latest, and were subsequently extended by the amending Regulation. The ATMs lost effect on 1 January 2016, when the DCFTA started to apply provisionally.

The current Commission's proposal is launched in addition to the EU concessions under the DCFTA that are already in force, in view of the enduring difficult economic situation and the economic reform efforts undertaken by Ukraine. In line with the AA objectives, the proposal aims at increasing the existing trade flows between the EU and Ukraine. The ATMs are proposed in form of increased zero tariff-rate quotas (TRQs) for maize, wheat, barley, oats, natural honey, processed tomato and grape juice and a partial or full removal of import duties (frontloading) for industrial products, e.g., fertilizers, footwear, aluminium products and electrical machinery. The proposed period of application is three years.



The increased quotas for agricultural products are proposed taking into account the quota use under the DCFTA. Since 1 January 2016 till June 2016, Ukraine had utilised 100 % of zero tariff quota available under DCFTA for honey, sugars, groats, pellets, grains, malt and gluten, preserved tomatoes, grape and apple juice, wheat and maize. Of those, additional trade concessions are proposed for the cereals, processed tomatoes, honey and grape juice. At the same time, zero tariff rate quota has been little or unused in other tariff lines due to the lack of conformity with the EU sanitary and phytosanitary (SPS) requirements (e.g. most of dairy and meat products). Most of the concessions for industrial products are proposed, *inter alia*, to support the small and medium sized enterprise (SME) sector and the need to compensate for the loss of the Russian market. In the case of fertilisers, the need for such measures may be justified by the concentration of the production facilities in Eastern Ukraine, partly as a result of their transfer from the Donetsk region.

### ***Economic and political context***

Rapporteur concedes that additional preferences to Ukraine may support its economic recovery efforts and the reorientation of its markets towards the EU. Indeed, due to the ongoing conflict in Eastern Ukraine, Russian trade sanctions, the ensuing loss of markets in the East and unfavourable global economic environment, Ukraine faces economic hardship. In 2015, the gross domestic product fell by 9.8%, and the share of the trade with Russia fell to 16% in 2015, compared to 27.3% in 2013. In 2015, bilateral trade with the EU decreased by 13.1% compared to 2014. Currently, Ukraine's trade with the EU is increasing. It grew by 7.5% in the period from October 2015 to September 2016 compared to the same period in 2014 and 2015. However, the effects of the overall recession are not fully overcome.

The Rapporteur welcomes the prolongation of EU restrictive measures against the Russian Federation, decided in June and September 2016. He agrees with the recommendations made at the fourth meeting of the EU-Ukraine Parliamentary Association Committee (PAC) held in Kyiv on 20 and 21 September 2016 that these measures remain in force until the full implementation of Minsk agreements and the restoration of the territorial integrity of Ukraine within internationally recognised borders. The Rapporteur emphasises the need to keep EU stance united on this matter.

### ***Additional trade preferences in the context of the reform process***

Ukraine should be commended for its efforts in carrying out unprecedented reforms. Yet, reforms often bring also short-term socioeconomic difficulties; therefore it is justified to consider further EU support to Ukraine in form of additional trade preferences. At the same time, it is crucial to ensure that any supportive measure sustains the aims of the AA to achieve a functioning market economy in Ukraine and further integrate it into the EU's internal market. Additional preferences thus should be offered where they contribute to the much needed economic diversification and support the SME sector. In contrast, they should not be offered to producers whose export capacity has already proven substantial.

While unilateral preferences can provide a boost to certain sectors in times of economic hardship, long term effects can only be achieved as a result of genuine reforms, including

those that Ukraine has committed to in the context of the DCFTA and its WTO membership. Irritants, such as the export ban on unprocessed wood and those related to SPS issues remain to be addressed, and concrete action to improve the protection and enforcement of intellectual property rights in Ukraine is yet to be taken.

The European Court of Auditors Special Report on Ukraine, published on 7 December 2016, substantiates the need to step up reform efforts. Assessing the effectiveness of the EU assistance in the areas of public finance management, the fight against corruption and in the gas sector during the 2007-2015 period, the ECA concludes that the results achieved so far remain fragile, despite the new impetus for reform since 2014. The results of anti-corruption measures remain to be seen.

### *Transparency and validity of the choice of products*

It is regrettable that, before the submission of the proposal to the legislators, there has been no updated impact assessment or formal stakeholder consultations, and no analysis was available concerning the potential economic benefits to Ukraine or the potential threats to the EU producers stemming from the inclusion of the concerned products in the Annexes.

Rapporteur is concerned that, in the explanatory memorandum, the Commission refers to other recently concluded free trade agreements that have provided unlimited duty free access for some of the agricultural products covered by the present proposal. It should be noted that trade concessions to Ukraine are asymmetrical and that Ukraine differs significantly from other partners in terms of geographical proximity to the EU, and transportation costs vary considerably. For these reasons, it is not appropriate to relate this proposal to other recently concluded FTAs.

It is important to find the right balance between helping Ukraine immediately and in the long run. Therefore, in long term, the EU should focus on assisting Ukraine in areas such as SPS standards, support to investment in the agriculture sector and fostering visa liberalisation.



14.3.2017

## **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 on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement (COM(2016)0631 – C8-0392/2016 – 2016/0308(COD))

Rapporteur: Czesław Adam Siekierski

### **SHORT JUSTIFICATION**

The proposal in question is aimed at supplementing the trade preferences already granted to Ukraine in the framework of the Deep and Comprehensive Free Trade Area (DCFTA) with additional autonomous trade preferences, mostly in the agricultural sector. These autonomous trade preferences take the form of an increase of the annual tariff rate quotas (TRQs) already established under the DCFTA in a proportion of 50% for certain products (grape juice, processed tomatoes, honey) and 100% for others (maize, wheat, barley, oats, barley and other groats). They would enter into force on the day following that of the publication of the regulation in the Official Journal and apply for three years.

When reading the Explanatory Memorandum attached to this proposal, one cannot help but being struck by the very thin justification provided for what should obviously be regarded as an entirely political initiative. Reference is made to “the difficult economic situation in Ukraine” and to the need “to increase existing trade flows concerning the import of certain agricultural products from Ukraine into the Union and to foster bilateral trade and economic cooperation with the Union” without explaining, however, why the trade preferences already granted to Ukraine under the DCFTA already appear insufficient so shortly after the entry into provisional application of the latter (1 January 2016) and why it is legitimate to grant such additional trade preferences without any counterpart from the trade partner in question.

Even more disturbing is the argument that “recent FTAs negotiated by the EU (notably with Peru and Colombia, with Central America, with Vietnam and with Canada) have already provided unlimited duty-free access for some of the agricultural products covered by the present Regulation” which is presented by the Commission as a justification in itself why such additional trade preferences should be granted to Ukraine. Your draftsperson wishes to

underline how dangerous such an approach is when applied to sensitive agricultural sectors at a time when this Committee is legitimately worried by the cumulative impact of trade agreements on agriculture (which was the subject of a recent study by the EU Joint Research Centre). Whatever the position that Parliament will eventually take on the proposal at hand, therefore, it is suggested that a strong message should be sent to the INTA Committee and to the Commission that the AGRI Committee does not accept this kind of headlong rush to tariff liberalisation in agriculture by our trade policy makers and negotiators.

Talking about the impact of trade preferences on the corresponding sectors of production in the EU, it is also deplorable and unacceptable that, in the present case, no impact assessment whatsoever has been carried out simply because “in view of the difficult economic situation in Ukraine, it is important for the Regulation to enter into force as soon as possible”. This, in your draftsman’s opinion, should be seen as another illustration of how lightly this question of the negative effects of trade liberalisation on sensitive agricultural sectors in the EU is approached by the Commission.

On substance, the autonomous trade preferences proposed are targeting some highly sensitive sectors of EU agriculture recently hit by serious crises and negatively impacted by the Russian embargo, such as fruits, vegetables and cereals, and they could not possibly come at a worse time. The crisis in the cereals sector, in particular, was the subject of a debate in the AGRI Committee on 12 October 2016, with a 2016-2017 campaign regarded as extremely worrying in several Member States with a combination of record low harvests (- 20% in France and Germany, - 30% in Romania and Bulgaria) and record low prices due an opposite situation (record high harvests) in other parts of the world (US, Canada, Brazil, Argentina).

Despite the political and economic difficulties currently experienced by Ukraine, this neighbouring country of the EU remains a very important and competitive producer of cereals and already enjoys a significant trade surplus with our Community for these productions (over 100 million euros in 2015). What is more, available data show that duties applied by the EU outside of TRQs do not pose a problem for import from Ukraine and only, to a certain degree, prevent the prices for Ukrainian agri-food products from dropping too low. In spite of that, and according to a comparison of cereal prices in the EU Member States, it would appear that these are the lowest in the countries that are direct neighbours with Ukraine.

Ukraine makes full use (100%) of the TRQs already granted and is expected to equally make full use of the new autonomous trade preferences which have been proposed by the Commission. Your draftsman expresses his concern that a potential destabilisation of the situation on the EU agricultural markets triggered by additional autonomous trade preferences for Ukraine may lead to increased negative sentiment for developing integration processes with this country.

Under these circumstances, and with a view to avoiding compounding the hardship already suffered by EU producers in the sectors most affected by additional preferential imports from Ukraine, your draftsman is recommending to leave out the proposed TRQs for wheat, maize and tomatoes prepared or preserved otherwise than by vinegar or acetic acid, listed in Annexes I and II.

Finally, should the INTA Committee or the Plenary decide to ignore this recommendation, it is suggested that, at the minimum, this should not be done before having demanded and obtained from the Commission a proper impact assessment for the measures at hand.

## AMENDMENTS

The Committee on Agriculture and Rural Development calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Article 1 – paragraph 3

*Text proposed by the Commission*

3. Tariff-rate quotas for specific agricultural products referred to in Annex II shall be administered by the Commission pursuant to the rules laid down in accordance with Article 184 of Regulation (EU) No 1308/2013.

*Amendment*

3. Tariff-rate quotas for specific agricultural products referred to in Annex II shall be administered by the Commission pursuant to the rules laid down in accordance with Article 184 of Regulation (EU) No 1308/2013. ***For the purpose of establishing the implementation plans and the arrangements for monitoring and assessment, on-line reporting on the utilisation of agricultural-related tariff-rate quotas shall be available via dedicated websites of the Commission.***

### Amendment 2

#### Proposal for a regulation

##### Article 2 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) respect for the principles provided for in Article 3 of the Association Agreement, including the fight against corruption.***

### Amendment 3

#### Proposal for a regulation

##### Article 4 – paragraph 1

*Text proposed by the Commission*

1. Where a product originating in

*Amendment*

1. Where a product originating in

Ukraine is imported on terms which cause, or threaten to cause, serious difficulties to a Community producer of like or directly competing products, Common Customs Tariff duties on such product may be reintroduced at any time by the Council acting by qualified majority on a proposal from the Commission.

Ukraine is imported on terms which cause, or threaten to cause, serious difficulties to a Community producer of like or directly competing products, Common Customs Tariff duties on such product may be reintroduced at any time by the Council acting by qualified majority on a proposal from the Commission. ***The Commission shall put in place a system to monitor the volumes for which concessions have been granted, linked to price levels on the internal markets of the products concerned, so that if those markets deteriorate and an Union producer has problems, the common customs tariff can be re-established immediately.***

#### **Amendment 4**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 2**

*Text proposed by the Commission*

2. At the request of a Member State or on the Commission's initiative, the Commission shall take a formal decision to initiate an investigation within a reasonable period of time. Where the Commission decides to initiate an investigation, it shall publish a notice in the Official Journal of the European Union announcing the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period, which shall not exceed ***four*** months from the date of publication of the notice, within which interested parties may make their views known in writing.

*Amendment*

2. At the request of a Member State or on the Commission's initiative, the Commission shall take a formal decision to initiate an investigation within a reasonable period of time. Where the Commission decides to initiate an investigation, it shall publish a notice in the Official Journal of the European Union announcing the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period, which shall not exceed ***two*** months from the date of publication of the notice, within which interested parties may make their views known in writing.

#### **Amendment 5**

##### **Proposal for a regulation**

##### **Article 4 – paragraph 4 – indent 2 a (new)**

*Text proposed by the Commission*

*Amendment*

– ***environmental standards***

## **Amendment 6**

### **Proposal for a regulation Article 4 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. The investigation shall be completed within *six* months after the publication of the notice referred to in paragraph 2. ***The Commission may, in the case of exceptional circumstances, extend this period in accordance with the procedure referred to in Article 5.***

5. The investigation shall be completed within ***four*** months after the publication of the notice referred to in paragraph 2.

## **Amendment 7**

### **Proposal for a regulation Article 4 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. ***Where exceptional circumstances requiring immediate action make an investigation impossible,*** the Commission may, after informing the Committee, take any preventive measure which is strictly necessary.

7. The Commission may, after informing the Committee, take any preventive measure which is strictly necessary.

## **Amendment 8**

### **Proposal for a regulation Article 4 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 4a***

##### ***Mid-term review***

***1. The Commission shall undertake an assessment of the impact of this***



*Regulation on the Union market for products listed in Annexes I and II, since the time of its entry into force, and shall present the conclusions of that assessment to the European Parliament and the Council.*

*2. If the provisions of this Regulation are found to affect the Union market for products listed in Annexes I and II, the Commission may by means of implementing acts introduce compensatory measures for the Union producers affected by the tariff dismantling for any of those products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5(2).*

#### *Justification*

*The speed with which this Regulation is to enter into force does not prevent the Commission from carrying out an assessment of the impact that these measures will have on EU markets and acting with the same speed to compensate European producers where necessary.*

### **Amendment 9**

#### **Proposal for a regulation Article 6 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. Where a renewal of the measures referred to in this Regulation is considered, the Commission shall review their impact prior to the end of the three-year period referred to in paragraph 2, and shall submit a legislative proposal if appropriate.*

### **Amendment 10**

#### **Proposal for a regulation Annex I – table 1 – row 4**

*Text proposed by the Commission*

<b>09.6752</b>	<b>2002</b>	<b><i>Tomatoes prepared or preserved otherwise than by vinegar or acetic acid</i></b>	<b>5000</b>
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*Amendment*

*deleted*

### **Amendment 11**

**Proposal for a regulation  
Annex II – table 1 – row 2**

*Text proposed by the Commission*

<b><i>Common wheat, spelt and meslin, flour, groats, meal and pellets</i></b>	<b><i>1001 99 00 1101 00 15, 1101 00 90 1102 90 90 1103 11 90 1103 20 60</i></b>	<b><i>100 000 tons/year</i></b>
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*Amendment*

*deleted*

### **Amendment 12**

**Proposal for a regulation  
Annex II – table 1 – row 3**

*Text proposed by the Commission*

<b><i>Maize, other than seed, flour, groats, meal, pellets and grains</i></b>	<b><i>1005 90 00 1102 20 1103 13 1103 20 40 1104 23</i></b>	<b><i>650 000 tons/year</i></b>
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*Amendment*

*deleted*

**Amendment 13**

**Proposal for a regulation  
Annex II – table 1 – row 4 – column 3**

*Text proposed by the Commission*

*Amendment*

*350 000 tons/year*

*50 000 tons/year*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement
<b>References</b>	COM(2016)0631 – C8-0392/2016 – 2016/0308(COD)
<b>Committee responsible</b> Date announced in plenary	INTA 6.10.2016
<b>Opinion by</b> Date announced in plenary	AGRI 6.10.2016
<b>Rapporteur</b> Date appointed	Czesław Adam Siekierski 12.10.2016
<b>Date adopted</b>	13.3.2017
<b>Result of final vote</b>	+: 19 -: 9 0: 16
<b>Members present for the final vote</b>	John Stuart Agnew, Clara Eugenia Aguilera García, Eric Andrieu, Richard Ashworth, José Bové, Daniel Buda, Nicola Caputo, Matt Carthy, Viorica Dăncilă, Michel Dantin, Paolo De Castro, Jean-Paul Denanot, Albert Deß, Diane Dodds, Jørn Dohrmann, Herbert Dorfmann, Norbert Erdős, Edouard Ferrand, Luke Ming Flanagan, Beata Gosiewska, Martin Häusling, Anja Hazekamp, Esther Herranz García, Jan Huitema, Peter Jahr, Ivan Jakovčić, Jarosław Kalinowski, Elisabeth Köstinger, Zbigniew Kuźmiuk, Philippe Loiseau, Mairead McGuinness, Nuno Melo, Ulrike Müller, James Nicholson, Maria Noichl, Marijana Petir, Bronis Ropé, Maria Lidia Senra Rodríguez, Ricardo Serrão Santos, Czesław Adam Siekierski, Tibor Szanyi, Marco Zullo
<b>Substitutes present for the final vote</b>	Bas Belder, Franc Bogovič, Rosa D'Amato, Angélique Delahaye, Fredrick Federley, Jens Gieseke, Julie Girling, Michela Giuffrida, Maria Heubuch, Karin Kadenbach, Manolis Kefalogiannis, Norbert Lins, Gabriel Mato, Anthea McIntyre, Susanne Melior, Momchil Nekov, Annie Schreijer-Pierik, Hannu Takkula

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

19	+
ECR	Richard Ashworth, Beata Gosiewska, Zbigniew Kuźmiuk, James Nicholson
NI	Diane Dodds
PPE	Daniel Buda, Michel Dantin, Albert Deß, Herbert Dorfmann, Norbert Erdős, Esther Herranz García, Peter Jahr, Jarosław Kalinowski, Elisabeth Köstinger, Mairead McGuinness, Nuno Melo, Marijana Petir, Czesław Adam Siekierski
S&D	Paolo De Castro

9	-
ALDE	Jan Huitema, Ivan Jakovčić, Ulrike Müller
ECR	Jørn Dohrmann
EFDD	Rosa D'Amato, Marco Zullo
ENF	Edouard Ferrand, Philippe Loiseau
S&D	Momchil Nekov

16	0
EFDD	John Stuart Agnew
GUE/NGL	Matt Carthy, Luke Ming Flanagan, Anja Hazekamp, Maria Lidia Senra Rodríguez
S&D	Clara Eugenia Aguilera García, Eric Andrieu, Nicola Caputo, Jean-Paul Denanot, Viorica Dăncilă, Maria Noichl, Ricardo Serrão Santos, Tibor Szanyi
Verts/ALE	Maria Heubuch, Martin Häusling, Bronis Ropë

### Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement		
<b>References</b>	COM(2016)0631 – C8-0392/2016 – 2016/0308(COD)		
<b>Date submitted to Parliament</b>	29.9.2016		
<b>Committee responsible</b> Date announced in plenary	INTA 6.10.2016		
<b>Committees asked for opinions</b> Date announced in plenary	BUDG 6.10.2016	AGRI 6.10.2016	
<b>Not delivering opinions</b> Date of decision	BUDG 10.10.2016		
<b>Rapporteurs</b> Date appointed	Jarosław Wałęsa 12.10.2016		
<b>Discussed in committee</b>	29.11.2016	24.1.2017	20.3.2017
<b>Date adopted</b>	4.5.2017		
<b>Result of final vote</b>	+: –: 0:	31 4 3	
<b>Members present for the final vote</b>	Laima Liucija Andrikiienė, Maria Arena, Tiziana Beghin, David Borrelli, Daniel Caspary, Salvatore Cicu, Santiago Fisas Ayxelà, Heidi Hautala, Yannick Jadot, Bernd Lange, David Martin, Anne-Marie Mineur, Sorin Moisă, Franz Obermayr, Franck Proust, Tokia Saïfi, Marietje Schaake, Helmut Scholz, Joachim Schuster, Adam Szejnfeld, Hannu Takkula		
<b>Substitutes present for the final vote</b>	Eric Andrieu, Bendt Bendtsen, Dita Charanzová, Edouard Ferrand, Danuta Maria Hübner, Agnes Jongerius, Stelios Kouloglou, Sander Loones, Bolesław G. Piecha, Fernando Ruas, José Ignacio Salafranca Sánchez-Neyra, Pedro Silva Pereira, Jarosław Wałęsa		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Beatriz Becerra Basterrechea, Edward Czesak, Danuta Jazłowiecka, Marco Zanni		
<b>Date tabled</b>	10.5.2017		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

30	+
ALDE	Beatriz Becerra Basterrechea, Dita Charanzová, Marietje Schaake, Hannu Takkula
ECR	Edward Czesak, Sander Loones, Bolesław G. Piecha
EFDD	Tiziana Beghin, David Borrelli
GUE/NGL	Helmut Scholz
PPE	Laima Liucija Andrikienė, Bendt Bendtsen, Daniel Caspary, Salvatore Cicu, Santiago Fisas Aixelà, Danuta Maria Hübner, Franck Proust, Fernando Ruas, José Ignacio Salafranca Sánchez-Neyra, Tokia Saïfi, Adam Szejnfeld, Jarosław Wałęsa
S&D	Eric Andrieu, Maria Arena, Agnes Jongerius, Bernd Lange, David Martin, Sorin Moisă, Joachim Schuster, Pedro Silva Pereira

4	-
ENF	Edouard Ferrand, Franz Obermayr, Marco Zanni
GUE/NGL	Anne-Marie Mineur

3	0
GUE/NGL	Stelios Kouloglou
VERTS/ALE	Heidi Hautala, Yannick Jadot

**Key to symbols:**

+ : in favour

- : against

0 : abstention