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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part - Outcome of the European Parliament's first reading (Strasbourg, 22 to 25 April 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on International Trade (INTA) Bernd LANGE (S&D, DE) presented on behalf of INTA a compromise amendment (amendment number 29) to the abovementioned proposal for a Regulation, for which the rapporteur Sandra KALNIETE (EPP, LV) had prepared a draft report, and one amendment (amendment number 30) to the legislative resolution containing statements. These amendments had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 23 April 2024, the plenary adopted the compromise amendment (amendment number 29) to the abovementioned proposal for a Regulation, as well as amendment number 30 to the legislative resolution. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2024)0304

Temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the EU/Euratom/Ukraine Association Agreement

European Parliament legislative resolution of 23 April 2024 on the proposal for a regulation of the European Parliament and of the Council on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (COM(2024)0050 – C9-0021/2024 – 2024/0028(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2024)0050),
 - 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 (C9-0021/2024),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 8 April 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Agriculture and Rural Development,
 - having regard to the report of the Committee on International Trade (A9-0077/2024),
1. Adopts its position at first reading hereinafter set out;
 2. Takes note of the statements by the Commission annexed to this resolution, which will be published in the C series of the *Official Journal of the European Union*;
 3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2024)0028

Position of the European Parliament adopted at first reading on 23 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 23 April 2024.

Whereas:

- (1) The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part² (the ‘Association Agreement’) constitutes the basis of the relationship between the Union and Ukraine. In accordance with Council Decision 2014/668/EU³, Title IV of the Association Agreement, which relates to trade and trade-related matters, applied provisionally from 1 January 2016, and entered into force on 1 September 2017, following ratification by all Member States.
- (2) The Association Agreement expresses the desire of the Parties to the Association Agreement (the ‘Parties’) to strengthen and widen relations in an ambitious and innovative way, to facilitate and achieve gradual economic integration, and to do so in compliance with the rights and obligations arising out of the World Trade Organization membership of the Parties.

² OJ L 161, 29.5.2014, p. 3.

³ Council Decision 2014/668/EU of 23 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, as regards Title III (with the exception of the provisions relating to the treatment of third-country nationals legally employed as workers in the territory of the other Party) and Titles IV, V, VI and VII thereof, as well as the related Annexes and Protocols (OJ L 278, 20.9.2014, p. 1).

- (3) Article 25 of the Association Agreement provides for the progressive establishment of a free trade area between the Parties in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994). To that end, Article 29 of the Association Agreement provides for the progressive elimination of customs duties in accordance with the Schedules included therein and for the possibility of accelerating and broadening the scope of such elimination.
- (4) Russia's unprovoked and unjustified war of aggression against Ukraine since 24 February 2022 has had a profoundly negative impact on the ability of Ukraine to trade with the rest of the world, both because of the destruction of production capacity and the unavailability of a significant proportion of means of transport due to, for example, the restriction and uncertainty of access to the Black Sea. Under such exceptional circumstances and to mitigate the negative economic impact of Russia's war of aggression against Ukraine, it is necessary to accelerate the development of closer economic relations between the Union and Ukraine in order to provide continued support to the Ukrainian authorities and population. It is therefore necessary and appropriate to continue stimulating trade flows and granting concessions in the form of trade-liberalisation measures for all products, in line with the acceleration of the elimination of customs duties on trade between the Union and Ukraine.

- (5) In accordance with Article 21(3) of the Treaty on European Union (TEU), the Union is to ensure consistency between the different areas of its external action. Pursuant to Article 207(1) of the Treaty on the Functioning of the European Union (TFEU), the common commercial policy is to be conducted in the context of the principles and objectives of the Union's external action.
- (6) Regulation (EU) 2023/1077 of the European Parliament and of the Council⁴ expires on 5 June 2024.
- (7) The temporary trade-liberalisation measures established by this Regulation should take the following form: (i) the suspension of the application of the entry price system to fruit and vegetables; (ii) the suspension of tariff-rate quotas and import duties; and (iii) the suspension of the application of Chapter V and Article 24 of Regulation (EU) 2015/478 of the European Parliament and of the Council⁵. Through those measures, the Union will, in effect, temporarily provide appropriate economic and financial support to the benefit of Ukraine and the economic operators that are affected.

⁴ Regulation (EU) 2023/1077 of the European Parliament and of the Council of 31 May 2023 on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (OJ L 144, 5.6.2023, p. 1).

⁵ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p. 16).

- (8) In order to prevent fraud, the preferential arrangements established by this Regulation should be conditional upon Ukraine complying 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 Ukraine's involvement in close administrative cooperation with the Union, as provided for by the Association Agreement.
- (9) The preferential arrangements established by this Regulation should also be conditional upon Ukraine abstaining from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect, from increasing existing levels of duties or charges, or from introducing any other restrictions on trade with the Union, unless clearly justified in the context of Russia's war of aggression against Ukraine.

- (10) The preferential arrangements established by this Regulation should also be conditional upon Ukraine's continued respect for the general principles of the Association Agreement. In this regard, Article 2 of the Association Agreement provides, among other things, that respect for democratic principles, human rights and fundamental freedoms, the promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders, and independence as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery constitute essential elements of the Association Agreement. Furthermore, Article 3 of the Association Agreement states that the rule of law, good governance, the fight against corruption, the fight against the different forms of trans-national organised crime and terrorism, the promotion of sustainable development and effective multilateralism are central to enhancing the relationship between the Parties.

- (11) Subject to an assessment by the Commission carried out in the context of the regular monitoring of the impact of this Regulation and launched either following a duly substantiated request from a Member State or on the Commission's own initiative, it is necessary to provide for the possibility to take any necessary measures regarding imports of any products falling under the scope of this Regulation, ***for instance wheat and other cereals***, which are adversely affecting the Union market or the market of one or several Member States for like or directly competing products. There is a particularly precarious situation in the markets for eggs, poultry, ***sugar, oats, maize, groats and honey*** that can harm Union agricultural producers if imports from Ukraine were to increase. It is appropriate to introduce an automatic safeguard for ***those*** products that is activated if the cumulative import volumes of any of those products in a specific period reach a certain level based on the arithmetic mean of import volumes recorded in ***the period from 1 July to 31 December 2021, in 2022 and in 2023***.
- (12) ***Imports from Ukraine, including cereals and oilseeds, can be made subject to surveillance under Chapter IV of Regulation (EU) 2015/478 , which includes the option to require the production of a surveillance document as a condition for free circulation (import licensing), if the trend in imports threatens to cause injury to Union producers and if the interests of the Union so require.***

- (13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to temporarily suspend the preferential arrangements provided in Article 1(1) if the conditions for entitlement to those preferential arrangements are no longer complied with and to introduce safeguards in cases where the Union market or the market of one or several Member States for like or directly competing products are adversely affected by imports under this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶. The advisory procedure provided for in that Regulation should be used for the adoption of provisional safeguard measures, given the effects and nature of those measures and their sequential logic in relation to the adoption of definitive safeguard measures. ***In addition, that advisory procedure should be used for the adoption of arrangements to monitor the import volumes of eggs, poultry, sugar, oats, maize, groats and honey from Ukraine to guarantee the effective functioning of the automatic safeguard.***
- (14) The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Area, which is an integral part of the Association Agreement, should include a detailed assessment of the implementation of the trade-liberalisation measures established by this Regulation.

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(15) In light of the expiry of Regulation (EU) 2023/1077 on 5 June 2024, this Regulation should enter into force on 6 June 2024,

HAVE ADOPTED THIS REGULATION:

Article 1

Trade-liberalisation measures

1. The following preferential arrangements are introduced:
 - (a) the application of the entry price system shall be suspended for those products to which it applies as specified in Annex I-A to the Association Agreement. No customs duties shall apply to imports of those products;
 - (b) all tariff-rate quotas established under Annex I-A to the Association Agreement shall be suspended and the products covered by those quotas shall be admitted for importation into the Union from Ukraine without any customs duties.
2. The application of Chapter V and Article 24 of Regulation (EU) 2015/478 shall be temporarily suspended with regard to imports originating in Ukraine.

Article 2

Conditions for entitlement to the preferential arrangements

The preferential arrangements provided in Article 1(1) shall be subject to the following conditions:

- (a) compliance by Ukraine with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement;
- (b) Ukraine's abstention from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union, from increasing existing levels of duties or charges, or from introducing any other restrictions on trade with the Union, including discriminatory internal administrative measures, unless clearly justified in the war context; and
- (c) Ukraine's 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.

Article 3

Temporary suspension

1. Where the Commission finds that there is sufficient evidence of Ukraine's failure to comply with the conditions set out in Article 2, it may, by means of an implementing act, suspend in whole or in part the preferential arrangements provided for in Article 1(1). That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(3).
2. Where a Member State requests that the Commission suspends any of the preferential arrangements on the basis of Ukraine's failure to comply with the conditions set out in Article 2, point (b), the Commission shall provide a reasoned opinion within four months of the request on whether the claim of Ukraine's failure to comply is substantiated. If the Commission concludes that the claim is substantiated, it shall initiate the procedure referred to in paragraph 1 of this Article.

Article 4

Safeguard measures

1. Where a product covered by Article 1(1) originating in Ukraine is imported under conditions which adversely affect the Union market or the market of one or several Member States for like or directly competing products, the Commission may impose any measure which is necessary by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(3).

Such measure may be imposed for as long as necessary to counteract the adverse effects on the Union market or on the market of one or several Member States for like or directly competing products.

2. The Commission shall regularly monitor the impact of this Regulation, taking into account the information on exports, imports, prices on the Union market or the market of one or several Member States and Union production of the products subject to the trade-liberalisation measures under Article 1(1), point (b).

The Commission shall inform the Member States of the results of the regular monitoring every two months, starting from...[the date of entry into force of this Regulation].

3. The Commission shall carry out an assessment of the situation of the Union market or the market of one or several Member States for like or directly competing products with a view to imposing measures in accordance with paragraph 1. That assessment shall be launched:
 - (a) following a duly substantiated request from a Member State including sufficient *prima facie* evidence reasonably available to that Member State pursuant to paragraph 4 of imports adversely affecting the market referred to in paragraph 1, or
 - (b) on its own initiative, after it has become apparent to the Commission that there is sufficient *prima facie* evidence of imports adversely affecting the market that is referred to in paragraph 1.

The assessment referred to in the first subparagraph shall be concluded within four months of its launch.

4. In carrying out the assessment pursuant to paragraph 3, the Commission shall take into consideration all relevant market developments, including the impact of the imports concerned on the situation of the Union market or the market of one or several Member States for like or directly competing products. That assessment shall include factors such as:
 - (a) the rate and amount of the increase in imports from Ukraine of the product concerned in absolute and relative terms,
 - (b) the effect of the imports concerned on production and prices on the Union market or the market of one or several Member States, while taking into consideration the development of imports from other sources.

The list of factors referred to in the first subparagraph is not exhaustive and other relevant factors may also be taken into consideration.

5. In critical circumstances where delay would cause damage that would be difficult to repair, the Commission may provisionally impose any measure which is necessary by means of an implementing act. Such measure may be imposed only after a duly substantiated request from a Member State pursuant to paragraph 3, point (a), of this Article and shall be adopted within 21 days after the request has been received. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 5(4). The duration of a provisional safeguard measure shall not exceed 120 days.
6. Where, as a result of the assessment referred to in paragraph 3, the Commission considers that the Union market or the market of one or several Member States for like or directly competing products has been adversely affected and intends to impose a definitive measure pursuant to paragraph 1, it shall publish a notice in the *Official Journal of the European Union* announcing the introduction of such a measure. The notice shall provide a summary of the main results of the assessment and specify the period within which interested parties may submit their views in writing. That period shall not exceed 10 days from the date of publication of the notice.

7. If, during the period 6 June to 31 December 2024, cumulative import volumes of eggs, poultry, **sugar, oats, maize, groats or honey** since 1 January 2024 reach the respective arithmetic mean of import volumes recorded in ***the period from 1 July to 31 December 2021, in 2022 and in 2023***, the Commission shall, within **14** days and after informing the Committee on Safeguards established by Article 3(1) of Regulation (EU) 2015/478 ('the Committee on Safeguards'):
- (a) reintroduce for that product the corresponding tariff-rate quota suspended by Article 1(1), point (b), of this Regulation until 31 December 2024; and
 - (b) introduce from 1 January 2025 either a tariff-rate quota equal to five twelfths of that arithmetic mean or the corresponding tariff-rate quota suspended by Article 1(1), point (b), of this Regulation whichever is higher.

If, during the period 1 January to 5 June 2025, cumulative import volumes of eggs, poultry, **sugar, oats, maize, groats or honey** for the period since 1 January 2025 reach five twelfths of the respective arithmetic mean of import volumes recorded ***in the period from 1 July to 31 December 2021, in 2022 and in 2023***, the Commission shall, within **14** days and after informing the Committee on Safeguards, reintroduce for that product the corresponding tariff-rate quota suspended by Article 1(1), point (b).

For the purposes of this paragraph, the terms eggs, poultry, **sugar, oats, maize, groats and honey** refer to all products covered by the tariff-rate quotas in the Appendix to Annex I-A of the Association Agreement for, respectively, eggs and albumins, poultry meat and poultry meat preparations, **sugars, oats, maize, flours and pellets, barley groats and meal; cereal grains otherwise worked, and honey**. The arithmetic mean *referred to in this paragraph* shall be calculated by dividing the sum of import volumes in *the period from 1 July to 31 December 2021, in 2022 and in 2023* by two *and a half*.

The Commission may adopt an implementing act laying down the arrangements for monitoring the import volumes referred to in this paragraph. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 5(4).

8. If the Commission imposes a measure pursuant to paragraph 1, 5, or 7 which reintroduces a tariff-rate quota suspended by Article 1(1), point (b), the quantity imported during the calendar year the Commission imposes that measure shall be taken into account in the management of that tariff-rate quota.

Article 5

Committee procedure

1. The Commission shall be assisted by the Customs Code Committee established by Article 285(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁷ with regard to Article 3(1) of this Regulation. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

⁷ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

2. The Commission shall be assisted by the Committee on Safeguards with regard to Article 4(1) of this Regulation. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 6

Assessment of the implementation of the trade-liberalising measures

The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Area shall include a detailed assessment of the implementation of the trade-liberalisation measures provided for in this Regulation and shall include, in so far as appropriate, an assessment of the social impact of those measures in Ukraine and in the Union. Information on imports of products under Article 1(1), point (b), shall be made available via the website of the Commission and shall be updated on a monthly basis.

Article 7

Entry into force and application

This Regulation shall enter into force on 6 June 2024.

This Regulation shall apply until 5 June 2025.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President

Two statements have been made with regard to this Regulation and can be found in OJ C ...
and in OJ C [OJ: please insert the publication references and ELI links to the statements].

Statement by the Commission on the monitoring of imports of grain from Ukraine on the occasion of the adoption of Regulation 2024/xxxx¹

Russia's war of aggression against Ukraine has disrupted pre-existing supply chains. The EU is providing support to Ukraine to resume normal flow of grain and other goods, especially through the Solidarity Lanes, and to ensure that exports of grain can reach their destination, including in particular in third markets, to support global food security.

The Commission is committed to supporting Ukraine while also preserving the interest of the EU grain producers and ensuring a proper functioning of the grain market in the EU.

Given the importance of grain production and grain markets, the Commission will pay particular attention to the monitoring of imports of grain, in particular wheat, and notably to the concentration of such imports in Member States neighbouring Ukraine. In its regular dialogue with Ukraine, the Commission will address any issues brought to light by the monitoring. The Commission recalls that imports from Ukraine can be subject to surveillance under Chapter IV of Regulation (EU) 2015/478 of the European Parliament and the Council of 11 March 2015 on common rules for imports, which can take the form of import licensing, if the trend in imports threatens to cause injury to Union producers and if the interests of the Union so require. In this regard, the Commission will use the tools at its disposal as needed. The Commission will continue to report regularly to Member States on the results of the regular dialogue with Ukraine.

For products covered by ATMs, the Commission recalls that the Regulation also provides for a reinforced safeguard mechanism. For the first time, the Commission has introduced the possibility and is ready to activate this mechanism in the event of adverse effects on the market of one or several Member States and not only for the EU market as a whole. In this regard, the Commission will use to the full extent its powers to initiate ex officio the reinforced safeguard mechanism for imports of wheat from Ukraine.

¹ OJ please insert the number in the text for 2024/0028(COD).

The Commission recalls that, in 2022 and 2023, it adopted measures to support European farmers in all Member States, notably in the Member States neighbouring Ukraine.

Statement by the Commission on the Review Process under Article 29 of the Association Agreement on the occasion of the adoption of Regulation 2024/xxxx²

The Commission confirms that, as soon as the new ATMs are adopted by the co-legislators, it will take the necessary steps under Article 29 of the Association Agreement to pursue, through consultations with Ukraine, the process of reciprocal tariff liberalisation.

The Commission will closely involve the European Parliament and will keep it informed of the progress of those consultations with Ukraine. The Commission will take due account of possible comments of the European Parliament in that respect.

The Commission recalls that these working modalities do not constitute a precedent for review clauses in any other agreement and do not deviate from Article 218 TFEU.

The outcome of this process will provide economic certainty and stable trade to both Ukraine and the EU, to farmers and businesses. This will also be an important step in the reconstruction of Ukraine and further integration into the EU internal market, as part of the country's future accession to the Union.

² OJ please insert the number in the text for 2024/0028(COD).