EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on temporary trade-liberalisation measures supplementing trade concessions applicable to products from the Republic of Moldova under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part

REGULATION (EU) 2022/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure[1],

[1] Position of the European Parliament of 5 July 2022 (not yet published in the Official Journal) and decision of the Council of ....

Whereas:

(1) The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part[1] (the 'Association Agreement'), constitutes the basis of the relationship between the Union and the Republic of Moldova. In accordance with Council Decision 2014/492/EU[2], Title V of the Association Agreement, which relates to trade and trade-related matters, has been applied provisionally since 1 September 2014, and entered into force on 1 July 2016 following ratification of the Association Agreement 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 Organisation membership of the Parties.

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1 OJ L 260, 30.8.2014, p. 4.

2 Council Decision 2014/492/EU of 16 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 the Republic of Moldova, of the other part (OJ L 260, 30.8.2014, p. 1).

(3) Article 143 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 147 of the Association Agreement provides for the progressive elimination of customs duties in accordance with the Schedules included in Annex XV to the Association Agreement 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 the Republic of Moldova to trade with the rest of the world, in particular because exports of the Republic of Moldova relied for that trade on transit via Ukrainian territory and using Ukrainian infrastructure, which are now largely unavailable. Under such critical circumstances and to mitigate the negative effects on the Republic of Moldova's economy of Russia's war of aggression against Ukraine, it is necessary to accelerate the development of closer economic relations between the Union and the Republic of Moldova and to provide quick support to the Republic of Moldova's economy. It is therefore necessary and appropriate to stimulate the Republic of Moldova's trade flows in the form of temporary trade-liberalisation measures granting additional tariff-free quotas for seven agricultural products still subject to annual duty-free tariff-rate quotas (TRQs), in line with the acceleration of the elimination of customs duties on trade between the Union and the Republic of Moldova.

(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) The trade-liberalisation measures established by this Regulation should take the form of temporary additional duty-free quotas on some agricultural products still subject to TRQs. Through such measures, the Union will deepen the economic integration between the Union and the Republic of Moldova and temporarily provide appropriate economic support to the benefit of the Republic of Moldova and the economic operators that are affected by Russia's war of aggression against Ukraine. Under Annex XV-A to the Association Agreement, seven agricultural products from the Republic of Moldova are subject to TRQs. Those products are: tomatoes, garlic, table grapes, apples, cherries, plums and grape juice. Two of those products (plums and table grapes) were exported by the Republic of Moldova in large volumes to third markets, in particular to Russia, Belarus and Ukraine. For those products, it is appropriate to introduce additional duty-free quotas to temporarily support the redirection to the Union, if needed, of the sales volumes originally directed to those markets. For the remaining products (tomatoes, garlic, apples, cherries and grape juice), the newly introduced TRQ would consist of an additional duty-free volume of the same size as the one provided for in the Association Agreement.

(7) In order to prevent fraud, entitlement to the trade measures established by this Regulation should be conditional upon the Republic of Moldova having complied with all the relevant conditions for obtaining benefits under the Association Agreement, including the rules of origin of the products concerned and the procedures related thereto, as well as the Republic of Moldova's involvement in close administrative cooperation with the Union, as provided for by the Association Agreement.

(8) The Republic of Moldova should abstain 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, unless clearly justified in the war context. In the event that the Republic of Moldova fails to comply with any of those conditions, the Commission should be empowered to suspend temporarily all or part of the trade measures established by this Regulation.

(9) Article 2 of the Association Agreement provides that, among other things, respect for democratic principles, human rights and fundamental freedoms as well as the countering of the proliferation of weapons of mass destruction, related materials and their means of delivery constitute essential elements of the Association Agreement. Under the same Article, the Parties commit in particular to the following general principles: the respect for the principles of the rule of law and good governance, the fight against corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism, and the respect for the principles of sustainable development and effective multilateralism. It is appropriate to introduce the possibility of temporarily suspending the trade-liberalisation measures provided for in this Regulation if the Republic of Moldova fails to respect either those essential elements or those general principles.

(10) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to temporarily suspend the trade-liberalisation measures provided for in this Regulation in cases where Union producers of like or directly competing products are or might be seriously 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 Council[1].

[1] 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).

(11) Subject to an investigation by the Commission, it is necessary to provide for the possibility to suspend temporarily the trade-liberalisation measures referred to in this Regulation with regard to one or more products falling under the scope of this Regulation which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products.

(12) 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.

(13) In view of the urgency of the matter related to the situation caused by Russia's war of aggression against Ukraine, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community.

(14) In light of the economic situation in the Republic of Moldova, this Regulation should, as a matter of urgency, enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Trade-liberalisation measures

In addition to the duty-free tariff-rate quotas ('TRQs') established by the Association Agreement in its Annex XV-A, the agricultural products listed in the Annex to this Regulation shall be admitted for import into the Union from the Republic of Moldova within the limits of Union duty-free TRQs as set out in that Annex. Those duty-free TRQs shall be administered by the Commission in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447[1].

Article 2

Conditions for entitlement to the trade-liberalisation measures

The trade-liberalisation measures provided for in Article 1 shall be subject to the following conditions:

(a) compliance with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement;

[1] Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

(b) the Republic of Moldova'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, including discriminatory internal administrative measures, unless clearly justified in the war context; and

(c) the Republic of Moldova's respect for democratic principles, human rights and fundamental freedoms as well as the countering of the proliferation of weapons of mass destruction, related materials and their means of delivery, respect for the principles of the rule of law and good governance, fight against corruption, criminal activities, organised or otherwise, including those of transnational character, and terrorism, and respect for the principles of sustainable development and effective multilateralism provided for in Articles 2, 9 and 16 of the Association Agreement.

Article 3

Temporary suspension of measures

1. Where the Commission finds that there is sufficient evidence of a failure by the Republic of Moldova 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 trade-liberalisation measures provided for in this Regulation. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(2).

2. Where a Member State requests that the Commission suspend any of the trade-liberalisation measures provided for in this Regulation on the basis of a failure by the Republic of Moldova 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 Member State's claim 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 clause

1. Where a product originating in the Republic of Moldova is imported on terms which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, the trade-liberalisation measure provided for in Article 1 may be suspended at any time with respect to that product.

2. The Commission shall closely monitor the impact of this Regulation, including with regard to the prices on the Union market, taking into account the information on exports, imports and Union production of the products subject to the trade-liberalisation measures established by this Regulation.

3. The Commission shall take a decision to initiate an investigation within a reasonable period of time:

   (a) at the request of a Member State;

   (b) at the request of a legal person or an association that does not have legal personality, acting on behalf of all or a major proportion of Union producers of like or directly competing products; or

(c) on its own initiative if it is apparent to the Commission that there is sufficient *prima facie* evidence of serious difficulties to Union producers of like or directly competing products as referred to in paragraph 1.

For the purposes of this paragraph, 'major proportion of Union producers of like or directly competing products' 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 producers which have expressed either support for or opposition to the request and which represent no less than 25 % of total production of the like or directly competing products produced by the Union industry.

4. Where the Commission decides to initiate an investigation, it shall publish a notice in the *Official Journal of the European Union* announcing the initiation of 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 within which interested parties may submit their views in writing. Such period shall not exceed four months from the date of publication of the notice.

5. The Commission shall seek all information it deems necessary and may verify the information received with the Republic of Moldova or any other relevant source. It may be assisted by officials of the Member State on whose territory verification might be sought, if that Member State requests that those officials assist.

6. In examining whether serious difficulties to Union producers of like or directly competing products as referred to in paragraph 1 exist, the Commission shall take account, among other things, of the following factors concerning Union producers, where relevant information is available:

– market share,

– production,

– stocks,

– production capacity,

– capacity utilisation,

– employment,

– imports,

– prices.

7. The investigation shall be completed within six months of the publication of the notice referred to in paragraph 4 of this Article. In exceptional circumstances, the Commission may extend that period by means of an implementing act adopted in accordance with the examination procedure referred to in Article 5(2).

8. Within three months of the completion of the investigation, the Commission shall decide whether to suspend the trade-liberalisation measure provided for in Article 1 with respect to the product subject to the investigation by way of an implementing act adopted in accordance with the examination procedure referred to in Article 5(2). That implementing act shall enter into force within one month of its publication. The suspension shall be maintained as long as necessary to counteract the deterioration in the economic or financial situation of Union producers, or for as long as the threat of such deterioration persists. Where the facts as finally established show that the conditions set out in paragraph 1 of this Article are not met, the Commission shall adopt an implementing act terminating the investigation and proceedings. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5(2).

9. Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may, after informing the Customs Code Committee referred to in Article 5(1), take any preventive measure which is necessary.

Article 5

Committee procedure

1. The Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1]. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 6

Assessment of the implementation of the trade-liberalisation 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 the Union and in the Republic of Moldova. Information on the imports of products under Article 1 shall be made available via the website of the Commission.

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[1] 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).

Article 7

Transitory provision

The trade-liberalisation measures provided for in this Regulation shall apply to products which, on ... [date of entry into force of this Regulation], are under customs control in the Union, subject to the making of a claim to that effect to the responsible customs authorities of the Union within six months of that date.

Article 8

Entry into force and application

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall apply until ... [one year from the date of entry into force of this Regulation].

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*

ANNEX

ADDITIONAL DUTY-FREE TARIFF-RATE QUOTAS FOR THE AGRICULTURAL PRODUCTS REFERRED TO IN ARTICLE 1

Notwithstanding the rules for the interpretation of the Combined Nomenclature (CN), the wording of the description of the products is to be considered as having no more than an indicative value. For the purposes of this Annex, the scope of the preferential scheme is to be determined by CN codes as they exist on the date of adoption of this Regulation.

Order No.	CN code	Description of products	Annual quota volume (in tonnes)
09.6810	0702 00 00	Tomatoes, fresh or chilled	2 000
09.6811	0703 20 00	Garlic, fresh or chilled	220
09.6812	0806 10 10	Table grapes, fresh	38 000
09.6816	0808 10 80	Apples, fresh (excl. cider apples, in bulk, from 16 September to 15 December)	40 000
09.6813	0809 29 00	Cherries (excl. sour cherries), fresh	1 500
09.6814	0809 40 05	Plums, fresh	25 000

Order No.	CN code	Description of products	Annual quota volume (in tonnes)
09.6815	2009 61 10	Grape juice, incl. grape must, unfermented, Brix value ≤ 30 at 20 °C, value of > EUR 18 per 100 kg, whether or not containing added sugar or other sweetening matter (excl. containing spirit)	500
	2009 69 19	Grape juice, incl. grape must, unfermented, Brix value > 67 at 20 °C, value of > EUR 22 per 100 kg, whether or not containing added sugar or other sweetening matter (excl. containing spirit)	
	2009 69 51	Concentrated grape juice, incl. grape must, unfermented, Brix value > 30 but ≤ 67 at 20 °C, value of > EUR 18 per 100 kg, whether or not containing added sugar or other sweetening matter (excl. containing spirit)	
	2009 69 59	Grape juice, incl. grape must, unfermented, Brix value > 30 but ≤ 67 at 20 °C, value of > EUR 18 per 100 kg, whether or not containing added sugar or other sweetening matter (excl. concentrated or containing spirit)	