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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 October 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 503 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process (codification)

Delegations will find herewith attached the Commission codification proposal referred to in the subject (COM(2022) 503 final - 2022/0304 (COD) and Annexes 1 to 3).

Delegations are invited to send their comments on the codification proposal by Friday 25 November 2022 to the following addresses:

Codification@consilium.europa.eu AND sj-codification@ec.europa.eu

Delegation's attention is drawn to the Practical Guide on Codification (doc. 14722/14 + COR1).

Encl.: COM(2022) 503 final



EUROPEAN
COMMISSION

Brussels, 4.10.2022
COM(2022) 503 final

2022/0304 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on exceptional trade measures for countries and territories participating in or linked to
the Stabilisation and Association process (codification)**

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process³. The new Regulation will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.
5. The codification proposal was drawn up on the basis of a preliminary consolidation, in 24 official languages, of Regulation (EC) No 1215/2009 and the instruments amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Entered in the legislative programme for 2021.

⁴ See Annex II to this proposal.

correlation between the old and the new numbers is shown in a table set out in Annex III to the codified Regulation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

~~introducing~~ ☒ on ☒ exceptional trade measures for countries and territories participating in or linked to the ~~European Union's~~ Stabilisation and Association process (codification)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ~~establishing the European Community~~ ☒ on the Functioning of the European Union ☒, and in particular Article ~~133~~ ☒ 207(2) ☒ thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:



- (1) Council Regulation (EC) No 1215/2009⁶ has been substantially amended several times⁷. In the interests of clarity and rationality, that Regulation should be codified.

↓ 2020/2172 recital 2 (adapted)

- (2) Stabilisation and Association Agreements have ~~now~~ been concluded with all ~~six~~ ☒ participants in the Stabilisation and Association process ☒ ~~beneficiary parties. The Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo^(*), of the other part, is the last one to be concluded and entered into force on 1 April 2016.~~

⁵ OJ C [...], [...], p. [...].

⁶ Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (OJ L 328, 15.12.2009, p. 1).

⁷ See Annex II.

^{*} ~~This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.~~

↓ 1215/2009 recital 3 (adapted)

- (3) A ~~continued Community~~ ☒ Union ☒ market opening to imports from the Western Balkan countries ~~is expected to~~ ☒ should ☒ contribute to the process of political and economic stabilisation in the region while not creating negative effects for the ☒ Union ☒ ~~Community~~.
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↓ 2020/2172 recital 5 (adapted)

- (4) ~~The extension of the period of application of Regulation (EC) No 1215/2009 is considered to be a suitable guarantee of the Union's enhanced engagement and commitment to the trade integration of the Western Balkans. The current~~ system of autonomous trade measures ☒ originally established by Council Regulation (EC) No 2007/2000 ☒⁸ ~~remains~~ ☒ constitutes ☒ a valuable support for the economies of the Western Balkan partners.
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↓ 1215/2009 recital 5 (adapted)

- (5) These measures are ~~proposed as~~ part of the ~~EU~~ Stabilisation and Association process, in a response to the specific situation in the Western Balkans. They ~~will~~ ☒ should ☒ not constitute a precedent for ~~Community~~ ☒ Union ☒ trade policy with other third countries.
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↓ 1215/2009 recital 6 (adapted)

- (6) In accordance with the ~~EU~~ Stabilisation and Association process, based on the earlier Regional Approach and the Council Conclusions of 29 April 1997, the development of bilateral relations between the European Union and the Western Balkan countries is subject to certain conditions. The granting of autonomous trade preferences is linked to respect for fundamental principles of democracy and human rights and to the readiness of the countries concerned to develop economic relations between themselves. The granting of improved autonomous trade preferences in favour of countries participating in the ~~EU~~ Stabilisation and Association process should be linked to their readiness to engage in effective economic reforms and in regional cooperation, in particular through the establishment of free trade areas in accordance with relevant GATT/WTO standards. In addition, entitlement to benefit from autonomous trade preferences is conditional on the involvement of the ~~beneficiaries~~ ☒ beneficiary parties ☒ in effective administrative cooperation with the ~~Community~~ ☒ Union ☒ in order to prevent any risk of fraud.
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↓ 1215/2009 recital 7

- (7) Trade preferences can only be granted to countries or territories possessing a customs administration.
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⁸ Council Regulation (EC) No 2007/2000 of 18 September 2000 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, amending Regulation (EC) No 2820/98, and repealing Regulations (EC) No 1763/1999 and (EC) No 6/2000 (OJ L 240, 23.9.2000 p. 1).

↓ 1215/2009 recital 9 (adapted)

- (8) The trade measures provided for in this Regulation should take into account that Serbia and ☒ Kosovo(*)☒ each constitute a separate customs territory.
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↓ 1215/2009 recital 12

- (9) For the purposes of certification of origin and administrative cooperation procedures, the relevant provisions of Commission Delegated Regulation (EU) 2015/2446⁹ and Commission Implementing Regulation (EU) 2015/2447¹⁰ should be applied.
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↓ 1336/2011 recital 9 (adapted)

- (10) In order to adopt the provisions necessary for the application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the ☒ integrated tariff of the European Union ☒ (TARIC) subdivisions, as well as the necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ☒, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹¹ ☒. ~~The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to ☒~~ In particular, to ensure equal participation in the preparation of delegated acts, ☒ the European Parliament and ~~to~~ the Council ☒ receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts ☒.
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↓ 1336/2011 recital 10

- (11) In order to ensure uniform conditions for the implementation of this Regulation with regard to the suspension of the entitlement to benefit from the preferential arrangements in the event of non-compliance, the issuing of authenticity certificates attesting that the goods originate in the country or territory concerned and correspond to the definition in this Regulation, and for the temporary suspension, in whole or in part, of the arrangements provided for in this Regulation, implementing powers should

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

⁹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

¹⁰ 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).

¹¹ OJ L 123, 12.5.2016, p. 1.

be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

↓ 1215/2009 recital 15 (adapted)

- (12) ~~The import arrangements provided for by this Regulation should be renewed on the basis of the conditions established by the Council and in the light of the experience gained in granting these arrangements under this Regulation.~~ It is appropriate to limit the duration ☒ period ☒ of the ☒ application of this Regulation ☒ arrangements to 31 December 2010 ☒ 2025 ☒.

↓ 1215/2009

~~HAVE~~HAS ADOPTED THIS REGULATION:

↓ 2020/2172 Art. 1.1 (adapted)

Article 1

Preferential arrangements

1. Products originating in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia ('the beneficiary parties') covered by Chapters 7 and 8 of the Combined Nomenclature shall be admitted for import into the Union without quantitative restrictions or measures having equivalent effect, and with exemption from custom duties and charges having equivalent effect.

2. Products originating in the beneficiary parties shall continue to benefit from the provisions of this Regulation where so indicated ☒ in those provisions ☒ therein. Such products shall also benefit from any concession provided for in this Regulation which is more favourable than that provided for under bilateral agreements between the Union and those beneficiary parties.

Article 2

Conditions for entitlement to the preferential arrangements

1. Entitlement to benefit from the preferential arrangements ~~introduced by~~ ☒ referred to in ☒ Article 1 shall be subject to the following conditions:

- (a) compliance with the definition of 'originating products' provided for in Title II, Chapter 1, Section 2, Subsections 4 and 5, of Delegated Regulation (EU) 2015/2446, and Title II, Chapter 2, Section 2, Subsections 10 and 11, of Implementing Regulation (EU) 2015/2447;

¹² 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).

- (b) abstention of the beneficiary parties from introducing new duties and charges having equivalent effect and new quantitative restrictions or measures having equivalent effect in respect of imports originating in the Union, from increasing existing levels of duties or charges or from introducing any other restrictions ~~from 30 September 2000;~~
- (c) the involvement of beneficiary parties in effective administrative cooperation with the Union in order to prevent any risk of fraud; ~~and~~
- (d) abstention of the beneficiary parties from engaging in serious and systematic violations of human rights, including core labour rights, of fundamental principles of democracy and of the rule of law.

2. Without prejudice to the conditions ~~set out~~ ☒ laid down ☒ in paragraph 1 of this Article, entitlement to benefit from the preferential arrangements referred to in Article 1 shall be subject to the readiness of the beneficiary parties to engage in effective economic reforms and in regional cooperation with other countries involved in the ~~European Union's~~ Stabilisation and Association process, in particular through the establishment of free trade areas in accordance with Article XXIV of the GATT 1994 and other relevant WTO provisions.

In the event of non-compliance with the first subparagraph, the Council may take the appropriate measures by a qualified majority vote, on the basis of a Commission proposal.

3. In the event of non-compliance by a beneficiary party with paragraph 1, point (a), (b) or (c), or with paragraph 2 of this Article, the Commission may, by means of implementing acts, suspend, in whole or in part, the entitlement of the beneficiary party concerned to benefits under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

↓ 1215/2009

Article 3

Agricultural products — tariff quotas

↓ 2020/2172 Art. 1.2(a)

1. For certain wine products, as listed in Annex I, originating in the beneficiary parties, the customs duties applicable to imports into the Union shall be suspended during the periods, at the levels, within the limits of the Union tariff quota and under the conditions indicated for each product and origin set out in that Annex.

↓ 1336/2011 Art. 1.3(c)

2. Notwithstanding other provisions of this Regulation, and in particular Article 10, given the particular sensitivity of the agricultural and fishery markets, where imports of agricultural and fishery products cause serious disturbance to Union markets and their regulatory mechanisms, the Commission may adopt appropriate measures by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

↓ 1215/2009

Article 4

Administration of tariff quotas

↓ 2020/2172 Art. 1.4

The tariff quotas referred to in Article 3(1) of this Regulation shall be administered by the Commission in accordance with Title II, Chapter 1, Section 1, of Implementing Regulation (EU) 2015/2447.

↓ 1215/2009

Communication for that purpose between the Member States and the Commission shall be effected, as far as possible, by telematic link.

Article 5

Access to tariff quotas

Each Member State shall ensure that importers have equal and uninterrupted access to the tariff quotas for as long as the balance of the relevant quota volume so permits.

↓ 1336/2011 Art. 1.5 (adapted)

Article 6

~~Conferral~~ ☒ Delegation ☒ of powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 7 concerning:

- (a) necessary amendments and technical adjustments to Annexes I ~~and II~~ following amendments to the Combined Nomenclature codes and to the ☒ integrated tariff of the European Union ☒ (TARIC) subdivisions;
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↓ 2020/2172 Art. 1.5

- (b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the beneficiary parties;
- (c) suspension, in whole or in part, of the entitlement of a beneficiary party concerned to benefits under this Regulation, in the event of non-compliance by that beneficiary party with Article 2(1), point (d).

↓ 1336/2011 Art. 1.6

Article 7

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

↓ 1202/2013 Art. 1.1 (adapted)

2. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for a period of five years from 3 December 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 6 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

✕ 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. ✕

↓ 1336/2011 Art. 1.6

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 6 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 8

Committee procedure

1. For the purposes of Articles 2 and 10, the Commission shall be assisted by the Western Balkans Implementation Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
 2. For the purposes of Article 3(2), the Commission shall be assisted by the committee established by Article 3(1) of Regulation (EU) 2015/478 of the European Parliament and of the Council¹³ 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.
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Article 9

Cooperation

Member States and the Commission shall cooperate closely to ensure that this Regulation, and in particular the provisions ~~set out~~ ☒ laid down ☒ in Article 10(1), are complied with.

Article 10

Temporary suspension

1. Where the Commission finds that there is sufficient evidence of fraud or failure to provide administrative cooperation as required for the verification of evidence of origin, or that there is a massive increase in exports into the Union above the level of normal production and export capacity or a failure ☒ to comply ☒ ~~of compliance~~ with Article 2(1), point (a), (b) or (c), by the beneficiary parties, it may take measures to suspend in whole or in part the arrangements provided for in this Regulation for a period of three months, provided that it has first:

- (a) informed the Western Balkans Implementation Committee;

¹³ 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).

- (b) called on the Member States to take such precautionary measures as are necessary in order to safeguard the Union's financial interests ~~and/or~~ to secure compliance by the beneficiary parties with Article 2(1);
- (c) published a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubts about the application of the preferential arrangements ~~and/or~~ compliance with Article 2(1) by the beneficiary party concerned which may call into question its right to continue enjoying the benefits granted by this Regulation.

The measures referred to in the first subparagraph of this paragraph shall be adopted by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(3).

↓ 1336/2011 Art. 1.8(c)

2. On conclusion of the period of suspension, the Commission shall decide either to terminate the provisional suspension measure or to extend the suspension measure in accordance with paragraph 1.

↓ 1215/2009 (adapted)

Article 11

Repeal

Regulation (EC) No ~~2007/2000~~ ☒ 1215/2009 ☒ is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 12

Entry into force and application

This Regulation shall enter into force on the ~~20th~~ ☒ twentieth ☒ day following ☒ that of ☒ its publication in the *Official Journal of the European Union*.

↓ 2020/2172 Art. 1.8

It shall apply until 31 December 2025.

↓ 1215/2009

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President