

I

(Legislative acts)

REGULATIONS

**REGULATION (EU) No 1336/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process

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⁾,

Whereas:

(1) 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 ⁽²⁾ introduced exceptional trade measures which provide for unlimited duty free access to the Union market for almost all products originating in the countries and customs territories benefiting from the Stabilisation and Association process. As Regulation (EC) No 2007/2000 was substantially amended several times, in the interests of clarity and rationality it was codified by Council Regulation (EC) No 1215/2009 ⁽³⁾.

(2) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, was signed in Luxembourg on 16 June 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related matters between the European Community, of

the one part, and Bosnia and Herzegovina, of the other part ⁽⁴⁾, was signed and concluded ⁽⁵⁾ and entered into force on 1 July 2008.

(3) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part was signed in Luxembourg on 29 April 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Serbia, of the other part ⁽⁶⁾, was signed and concluded ⁽⁷⁾ and entered into force on 1 February 2010.

(4) The Stabilisation and Association Agreements and the Interim Agreements establish a contractual trade regime between the European Union and Bosnia and Herzegovina, and between the European Union and Serbia. It is therefore necessary to amend Regulation (EC) No 1215/2009 by removing Bosnia and Herzegovina and Serbia from the list of beneficiaries of the tariff concessions for the same products under the contractual trade regime and to adjust the global tariff quota volumes for specific products for which tariff quotas have been granted under the contractual trade regime. Bosnia and Herzegovina and Serbia should, however, remain beneficiaries under Regulation (EC) No 1215/2009 in so far as that Regulation provides for concessions which are more favourable than those under the bilateral agreements.

(5) Regulation (EC) No 1215/2009 remains the main instrument governing trade relations with Kosovo ⁽⁸⁾. Kosovo's continued access to the Union market

⁽¹⁾ Position of the European Parliament of 13 October 2011 (not yet published in the Official Journal) and decision of the Council of 24 November 2011.

⁽²⁾ OJ L 240, 23.9.2000, p. 1.

⁽³⁾ OJ L 328, 15.12.2009, p. 1.

⁽⁴⁾ OJ L 233, 30.8.2008, p. 6.

⁽⁵⁾ OJ L 169, 30.6.2008, p. 10. Corrected version in OJ L 233, 30.8.2008, p. 5.

⁽⁶⁾ OJ L 28, 30.1.2010, p. 2.

⁽⁷⁾ OJ L 28, 30.1.2010, p. 1.

⁽⁸⁾ As defined by United Nations Security Council Resolution 1244(1999).

is crucial for Kosovo's economic recovery and for the whole region. At the same time, such access will not have negative consequences for the Union.

- (6) For those reasons and given the fact that Regulation (EC) No 1215/2009 ceased to apply on 31 December 2010, it is appropriate to extend the validity of Regulation (EC) No 1215/2009 until 31 December 2015.
- (7) In order to ensure the Union's compliance with its international obligations, the preferential arrangements set out in this Regulation should be made conditional on the continuation or renewal of the existing waiver from World Trade Organization (WTO) obligations obtained by the Union.
- (8) In order to protect the economic interests of operators, it is necessary to provide for transitional measures in respect of goods that are, at the date of application of this Regulation, in transit or in temporary storage in customs warehouses or in free zones.
- (9) 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 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. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (10) 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 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 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⁽¹⁾.
- (11) In order not to disrupt trade, it is necessary for this Regulation to apply retroactively, as of 1 January 2011,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1215/2009 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

Preferential arrangements

1. Subject to the special provisions laid down in Article 3, products originating in the customs territory of Kosovo, other than those of headings 0102, 0201, 0202, 0301, 0302, 0303, 0304, 0305, 1604, 1701, 1702 and 2204 of the Combined Nomenclature, shall be admitted for import into the Union without quantitative restrictions or measures having equivalent effect and with exemption from customs duties and charges having equivalent effect.

2. Products originating in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro or Serbia shall continue to benefit from the provisions of this Regulation where so indicated. 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 countries.;

- (2) Article 2 is amended as follows:

- (a) point (a) of paragraph 1 is replaced by the following:

'(a) compliance with the definition of "originating products" provided for in Part I, Title IV, Chapter 2, Section 2 of Regulation (EEC) No 2454/93.;

- (b) the following paragraph is added:

'3. In the event of non-compliance by a country or territory with paragraphs 1 or 2, the Commission may, by means of implementing acts, suspend, in whole or in part, the entitlement of the country or territory concerned to benefits under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

- (3) Article 3 is amended as follows:

- (a) paragraph 2 is replaced by the following:

'2. The customs duties applicable to imports into the Union of "baby-beef" products defined in Annex II and originating in the customs territory of Kosovo, shall be 20 % of the *ad valorem* duty and 20 % of the specific duty as laid down in the Common Customs Tariff, within the limit of an annual tariff quota of 475 tonnes expressed in carcase weight.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

Any request for import within this quota shall be accompanied by an authenticity certificate issued by the competent authorities of the exporting territory and attesting that the goods originate in the territory concerned and correspond to the definition in Annex II to this Regulation. That certificate shall be drawn up by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(b) paragraph 3 is deleted;

(c) paragraph 4 is replaced by the following:

‘4. Notwithstanding other provisions of this Regulation, and in particular Article 10, given the particular sensitivity of the agricultural and fishery markets, where imports of agricultural and fishery products cause serious disturbance to Union markets and their regulatory mechanisms, the Commission may adopt appropriate measures by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(4) Article 4 is replaced by the following:

‘Article 4

Implementation of tariff quota for “baby beef”

The detailed rules for implementing the tariff quota for “baby-beef” products shall be determined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(5) Article 7 is replaced by the following:

‘Article 7

Conferral of powers

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

- (a) necessary amendments and technical adjustments to Annexes I and II following amendments to the Combined Nomenclature codes and to the TARIC subdivisions;
- (b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the countries and territories referred to in Article 1.;

(6) the following Article is inserted:

‘Article 7a

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.

2. The power to adopt delegated acts referred to in Article 7 shall be conferred on the Commission until the date of expiry of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before that date.

3. The power to adopt delegated acts referred to in Article 7 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 7 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.;

(7) Article 8 is replaced by the following:

‘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 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 (*).

2. For the purposes of Article 3(4), the Commission shall be assisted by the committee established by Article 4(1) of Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (**). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3. For the purposes of Article 3(2) and Article 4, the Commission shall be assisted by the committee established by Article 195(1) of Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (**). That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

(*) OJ L 55, 28.2.2011, p. 13.

(**) OJ L 84, 31.3.2009, p. 1.

(***) OJ L 299, 16.11.2007, p. 1.;

(8) Article 10 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) informed the Western Balkans Implementation Committee;'

(ii) the following subparagraph is added:

'The measures referred to in the first subparagraph 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(4).';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. 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.';

(9) in Article 12, the second paragraph is replaced by the following:

'It shall apply until 31 December 2015.

The preferences provided for in this Regulation shall cease to apply, in whole or in part, in the event that they would not be permitted by a waiver granted by the WTO. Such cessation shall apply from the day on which the waiver is no longer in effect. The Commission shall, sufficiently prior to that date, publish a notice in the *Official Journal of the European Union* to inform operators and the competent authorities thereof. The notice shall specify which preferences provided for in this Regulation are no longer in effect and the date on which they cease to apply.;

(10) Annex I is replaced by the text appearing in the Annex to this Regulation.

Article 2

Goods which, on 1 January 2011, are either in transit or in the Union in temporary storage in customs warehouses or in free zones and for which before that date a proof of origin of Bosnia and Herzegovina or Serbia has been properly issued in accordance with Part I, Title IV, Chapter 2, Section 2 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾, shall continue to benefit from Regulation (EC) No 1215/2009 for a period of 4 months from the date of application of this Regulation.

Article 3

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

It shall apply from 1 January 2011.

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

Done at Strasbourg, 13 December 2011.

For the European Parliament
The President
J. BUZEK

For the Council
The President
M. SZPUNAR

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

ANNEX

'ANNEX I

TARIFF QUOTAS REFERRED TO IN ARTICLE 3(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN Code	Description	Quota volume per year (1)	Beneficiaries	Rate of duty
09.1571	0301 91 10 0301 91 90 0302 11 10 0302 11 20 0302 11 80 0303 21 10 0303 21 20 0303 21 80 0304 19 15 0304 19 17 ex 0304 19 18 ex 0304 19 91 0304 29 15 0304 29 17 ex 0304 29 18 ex 0304 99 21 ex 0305 10 00 ex 0305 30 90 0305 49 45 ex 0305 59 80 ex 0305 69 80	Trout (<i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarki</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i> , <i>Oncorhynchus apache</i> and <i>Oncorhynchus chrysogaster</i>): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	15 tonnes	customs territory of Kosovo	0 %
09.1573	0301 93 00 0302 69 11 0303 79 11 ex 0304 19 18 ex 0304 19 91 ex 0304 29 18 ex 0304 99 21 ex 0305 10 00 ex 0505 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	Carp: live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	20 tonnes	customs territory of Kosovo	0 %
09.1575	ex 0301 99 80 0302 69 61 0303 79 71 ex 0304 19 39 ex 0304 19 99 ex 0304 29 99 ex 0304 99 99 ex 0305 10 00 ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.): live; fresh or chilled; frozen; dried, salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	45 tonnes	customs territory of Kosovo	0 %
09.1577	ex 0301 99 80 0302 69 94 ex 0303 77 00 ex 0304 19 39 ex 0304 19 99 ex 0304 29 99 ex 0304 99 99 ex 0305 10 00	Sea bass (<i>Dicentrarchus labrax</i>): live; fresh or chilled; frozen; dried; salted or in brine, smoked; fillets and other fish meat; flours, meals and pellets, fit for human consumption	30 tonnes	customs territory of Kosovo	0 %

Order No	CN Code	Description	Quota volume per year ⁽¹⁾	Beneficiaries	Rate of duty
	ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80				
09.1515	ex 2204 21 93 ex 2204 21 94 ex 2204 21 95 ex 2204 21 96 ex 2204 21 97 ex 2204 21 98 ex 2204 29 93 ex 2204 29 94 ex 2204 29 95 ex 2204 29 96 ex 2204 29 97 ex 2204 29 98	Wine of fresh grapes, of an actual alcoholic strength by volume not exceeding 15 % vol, other than sparkling wine	50 000 hl ⁽²⁾	Albania ⁽³⁾ , Bosnia and Herzegovina ⁽⁴⁾ , Croatia ⁽⁵⁾ , the former Yugoslav Republic of Macedonia ⁽⁶⁾ , Montenegro ⁽⁷⁾ , Serbia ⁽⁸⁾ or customs territory of Kosovo	Exemption

⁽¹⁾ One global volume per tariff quota accessible to imports originating in the beneficiaries.

⁽²⁾ The volume of this global tariff quota shall be reduced if the quota volume of the individual tariff quota applicable under order No 09.1588 for certain wines originating in Croatia is increased.

⁽³⁾ Access for wine originating in Albania to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with Albania. These individual tariff quotas are opened under order Nos 09.1512 and 09.1513.

⁽⁴⁾ Access for wine originating in Bosnia and Herzegovina to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Bosnia and Herzegovina. These individual tariff quotas are opened under order Nos 09.1528 and 09.1529.

⁽⁵⁾ Access for wine originating in Croatia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with Croatia. These individual tariff quotas are opened under order Nos 09.1588 and 09.1589.

⁽⁶⁾ Access for wine originating in the former Yugoslav Republic of Macedonia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with the former Yugoslav Republic of Macedonia. These individual tariff quotas are opened under order Nos 09.1558 and 09.1559.

⁽⁷⁾ Access for wine originating in Montenegro to this global tariff quota is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Montenegro. This individual tariff quota is opened under order No 09.1514.

⁽⁸⁾ Access for wine originating in Serbia to this global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Serbia. These individual tariff quotas are opened under order Nos 09.1526 and 09.1527.