

I

(Legislative acts)

REGULATIONS

**REGULATION (EU) 2017/540 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 March 2017**

amending Regulation (EU) No 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amending Regulation (EU) No 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

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) Article 329 of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ⁽²⁾ (the 'Agreement'), signed on 26 June 2012, provides for the accession of other Member Countries of the Andean Community to the Agreement. Ecuador has been a Member Country of the Andean Community since its foundation in 1969.
- (2) The Union and Ecuador concluded negotiations for the accession of Ecuador to the Agreement on 17 July 2014. The Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador ⁽³⁾ (the 'Protocol of Accession') was signed on 11 November 2016 and is being applied provisionally in accordance with Article 27(4) thereof since 1 January 2017.
- (3) Following the signature of the Protocol of Accession, it is necessary to guarantee, with regard to Ecuador, the effective application of the bilateral safeguard clause and of the stabilisation mechanism for bananas, as provided for in the Agreement.
- (4) In addition, the Combined Nomenclature (CN) code for bananas used in Annex I to the Agreement (Tariff Elimination Schedules) refers to the 2007 CN code. The same code is used in both Regulation (EU)

⁽¹⁾ Position of the European Parliament of 2 February 2017 (not yet published in the Official Journal) and decision of the Council of 20 February 2017.

⁽²⁾ OJ L 354, 21.12.2012, p. 3.

⁽³⁾ OJ L 356, 24.12.2016, p. 3.

No 19/2013 of the European Parliament and of the Council ⁽¹⁾ and Regulation (EU) No 20/2013 of the European Parliament and of the Council ⁽²⁾. However, the relevant code for bananas was changed from 1 January 2012 from 0803 00 19 to 0803 90 10 in order to reflect the compulsory Harmonised System (HS) amendments. For the sake of clarity, that change should be introduced in both Regulation (EU) No 19/2013 and Regulation (EU) No 20/2013 in the relevant part on the stabilisation mechanism for bananas.

- (5) Ecuador is one of the main producers and suppliers of bananas to the Union, along with Colombia. The current stabilisation mechanism for bananas should therefore be extended to Ecuador.
- (6) The stabilisation mechanism has been in place since 2013 and it appears that, based on past experience, the information flow between the Commission, the Member States and the European Parliament should be improved, in particular by including an early warning when import volumes reach 80 % of the trigger import volumes.
- (7) Due to the close interrelation with the Agreement, it is appropriate to apply this Regulation from the date of provisional application of the Protocol of Accession.
- (8) Regulation (EU) No 19/2013 and Regulation (EU) No 20/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 19/2013 is amended as follows:

- (1) The title is replaced by the following:

‘Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia, Peru and Ecuador, of the other part’.

- (2) In point (a) of Article 1, Article 2(1), Article 4(4), Article 5(6) and (11), Article 6(1), Article 7(1), Article 9(1) and Article 11, the words ‘Colombia or Peru’ are replaced by ‘Colombia, Ecuador or Peru’.

- (3) In Article 1, point (h) is replaced by the following:

‘(h) “transitional period” means 10 years from the respective date of application of the Agreement for products for which the Tariff Elimination Schedules for goods originating in Colombia, Ecuador or Peru, as set out in Subsections 1, 2 and 3 of Section B of Appendix 1 (Elimination of Customs Duties) of Annex I to the Agreement (Tariff Elimination Schedules), provide for a tariff elimination period of less than 10 years, or the tariff elimination period plus three years for products for which those Tariff Elimination Schedules provide for a tariff elimination period of 10 or more years; the transitional period shall be applicable to Ecuador from the date of application of the Agreement.’.

- (4) In Article 3(1), (3) and (4) and Article 13(4), the words ‘Colombia and Peru’ are replaced by ‘Colombia, Ecuador and Peru’.

- (5) In Article 15, paragraphs 1 and 2 are replaced by the following:

‘1. For bananas originating in Colombia, Ecuador or Peru falling under heading 0803 90 10 of the Combined Nomenclature (fresh bananas, excluding plantains) and listed under the staging category “BA” in the Tariff Elimination Schedule in the case of Colombia and Peru and staging category “SP1” in the Tariff Elimination Schedule in the case of Ecuador under the heading 0803 00 19, a stabilisation mechanism shall apply until 31 December 2019.

⁽¹⁾ Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (OJ L 17, 19.1.2013, p. 1).

⁽²⁾ Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (OJ L 17, 19.1.2013, p. 13).

2. A separate annual trigger import volume is set for imports of products referred to in paragraph 1, as indicated in the second, third and fourth columns of the table in the Annex. Once the trigger volume for Colombia, Ecuador or Peru is met during the corresponding calendar year, the Commission shall, in accordance with the urgency procedure referred to in Article 14(4), adopt an implementing act by which it shall either temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year, or determine that such suspension is not appropriate.

2a. When import volumes reach 80 % of the trigger import volume, as indicated in the Annex to this Regulation, for one or more of the parties to the Agreement, the Commission shall formally alert the European Parliament and the Council in writing. At the same time, the Commission shall transmit to the European Parliament and the Council the relevant information on the trends in bananas and import statistics concerning the imports from the countries subject to the stabilisation mechanism and their relevant thresholds, in order to anticipate import trends over the rest of the calendar year.’.

(6) The Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

In Article 15 of Regulation (EU) No 20/2013 paragraphs 1 and 2 are replaced by the following:

‘1. For bananas originating in Central America falling under heading 0803 90 10 of the Combined Nomenclature (fresh bananas, excluding plantains) and listed under category “ST” in the Tariff Elimination Schedule under heading 0803 00 19, a stabilisation mechanism shall apply until 31 December 2019.

2. A separate annual trigger import volume is set for imports of products referred to in paragraph 1, as indicated in the table in the Annex. The importation of the products referred to in paragraph 1 at the preferential customs duty rate shall, in addition to the proof of origin established under Annex II (Concerning the definition of the concept of “originating products” and methods of administrative cooperation) to the Agreement, be subject to the presentation of an export certificate issued by the competent authority of the Central American country from which the products are exported. Once the trigger volume for a Central American country is met during the corresponding calendar year, the Commission shall, in accordance with the urgency procedure referred to in Article 14(4), adopt an implementing act by which it shall either temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year, or determine that such suspension is not appropriate.

2a. When import volumes reach 80 % of the trigger import volume, as indicated in the Annex to this Regulation, for one or more of the parties to the Agreement, the Commission shall formally alert the European Parliament and the Council in writing. At the same time, the Commission shall transmit to the European Parliament and the Council the relevant information on the trends in bananas and import statistics concerning the imports from the countries subject to the stabilisation mechanism and their relevant thresholds in order to anticipate import trends over the rest of the calendar year.’.

Article 3

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

It shall apply from 1 January 2017.

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

Done at Strasbourg, 15 March 2017.

For the European Parliament

The President

A. TAJANI

For the Council

The President

I. BORG

ANNEX

Table regarding trigger import volumes for the application of the stabilisation mechanism for bananas provided for in Section B of Appendix 1 of Annex I to the Agreement: for Colombia, Subsection 1; for Peru, Subsection 2; and for Ecuador, Subsection 3.

Year	Trigger import volume for Colombia, in metric tonnes	Trigger import volume for Peru, in metric tonnes	Trigger import volume for Ecuador, in metric tonnes
From 1 January until 31 December 2017	1 822 500	93 750	1 801 788
From 1 January until 31 December 2018	1 890 000	97 500	1 880 127
From 1 January until 31 December 2019	1 957 500	101 250	1 957 500
As from 1 January 2020	Not applicable	Not applicable	Not applicable

Joint declaration by the European Parliament, the Council and the Commission

The European Parliament, the Council and the Commission agree on the importance of close cooperation in monitoring the implementation of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ⁽¹⁾ as amended by Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador ⁽²⁾, Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part ⁽³⁾ and Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other ⁽⁴⁾. To that end they agree on the following:

- Upon request by the responsible committee of the European Parliament, the Commission will report to it on any specific concerns relating to the implementation by Colombia, Ecuador or Peru of their commitments on trade and sustainable development.
- If the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions under Regulation (EU) No 19/2013 or under Regulation (EU) No 20/2013 for ex-officio initiation are fulfilled. If the Commission considers that the conditions are not fulfilled, it will present a report to the responsible committee of the European Parliament including an explanation of all the factors relevant to the initiation of such an investigation.
- The Commission will, by 1 January 2019, assess the situation of Union banana producers. If a serious deterioration in the state of the market or the situation of Union banana producers is found to have occurred, an extension in the period of validity of the mechanism may be considered with the agreement of the parties to the Agreement.

The Commission will continue to carry out regular analyses of the state of the market and the situation of Union banana producers after expiry of the stabilisation mechanism. If a serious deterioration in the state of the market or the situation of Union banana producers is found to have occurred, given the importance of the banana sector for outermost regions, the Commission will examine the situation, together with the Member States and the stakeholders, and decide whether appropriate measures should be considered. The Commission could also convene regular monitoring meetings with the Member States and the stakeholders.

The Commission has developed statistical tools to enable the monitoring and assessment of the trends in imports of bananas and of the situation of the Union banana market. The Commission will pay special attention to reviewing the format of the import surveillance data in order to make available regularly updated information in a more user-friendly manner.

⁽¹⁾ OJ L 354, 21.12.2012, p. 3.

⁽²⁾ OJ L 356, 24.12.2016, p. 3.

⁽³⁾ OJ L 17, 19.1.2013, p. 1.

⁽⁴⁾ OJ L 17, 19.1.2013, p. 13.