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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on 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

EXPLANATORY MEMORANDUM

- (1) By Regulation (EC) No 2007/2000¹, the European Union has granted exceptional unlimited duty-free access to the EU market for nearly all products originating in the countries and territories benefiting from the Stabilisation and Association process. The key aim of these measures is to revitalise the Western Balkan economies through a privileged access to the EU market. In turn, economic development is to foster political stability in the entire region.
- (2) As Council Regulation (EC) No 2007/2000 was substantially amended several times, it was codified by Council Regulation (EC) No 1215/2009 of 30 November 2009².
- (3) These trade preferences were granted for a period ending on 31 December 2010 and currently apply to Bosnia and Herzegovina, Serbia and Kosovo³ for all the products under the scope of Regulation (EC) No 1215/2009. The products originating in Albania, in the Republic of Croatia, in the former Yugoslav Republic of Macedonia or in Montenegro continue to benefit from the provisions of Regulation (EC) No 1215/2009 when so indicated or from any measures provided in Regulation (EC) No 1215/2009 which are more favourable than the trade concessions provided for in the framework of bilateral agreements between the European Union and these countries.
- (4) On the 16 June 2008 the Stabilisation and Association Agreement between the European Union and Bosnia and Herzegovina was signed. Pending the conclusion of ratification procedures, the Interim Agreement on trade and trade-related matters between the European Union and Bosnia and Herzegovina entered into force on 1 July 2008.
- (5) On 29 April 2008 the Stabilisation and Association Agreement between the European Union and Serbia was signed. Pending its entry into force, the Interim Agreement on trade and trade-related matters between the European Union and Serbia is implemented since 8 December 2009 and entered into force on 1 February 2010.
- (6) As the Interim Agreements / Stabilisation and Association Agreements (SAAs) grant trade concessions to Bosnia and Herzegovina and Serbia on the same products identified in the autonomous trade preferences, these concessions have to be withdrawn from the Council Regulation (EC) No 1215/2009. These concern the preferential tariff quotas for baby beef, sugar and sugar products, certain wines, as well as for certain fishery products.
- (7) On 14 October 2009 the European Commission adopted a Communication entitled *Kosovo - Fulfilling its European Perspective* and it recommended to extend the Autonomous Trade Measures.
- (8) The General Affairs Council in its Conclusions of 8 December 2009 states that in respect to the EU's relations with Kosovo it attaches importance to measures on trade, without prejudice to Member States' positions on status.

¹ OJ L 240, 23.9.2000, p. 1.

² OJ L 328, 15.12.2009, p. 1.

³ As defined by UNSCR 1244/99.

- (9) The European Parliament in its Resolution on 26 November 2009 *Enlargement strategy 2009 concerning the countries of the Western Balkans Iceland and Turkey* calls on the Commission to make every possible effort to mitigate the effect of the economic crisis on the Western Balkans.
- (10) The termination of the trade preferences would take from the beneficiaries an objective economic advantage in their trade with the EU. This could have very negative consequences on the overall economic performances of Western Balkans, with consequent negative repercussions on their domestic reform and transition processes. Moreover, their economic recovery could be seriously jeopardised.
- (11) This proposal amends certain elements of Regulation (EC) No 1215/2009 to permit the extension of its validity to 31 December 2015 and make certain adjustments consequent to the entry into force of bilateral agreements with Bosnia and Herzegovina and Serbia. Regulation (EC) No 1215/2009 also contains, in Articles 2 and 10, certain powers reserved to the Council and which are not based on Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission. The Commission will make a proposal which will revise all such procedures in the common commercial policy in the light of the system of implementing acts set out in Article 291 of the Treaty on the Functioning of the European Union and the regulation on the rules and general principles concerning the Commission's exercise of the implementing powers adopted on the basis of Article 291(3). That proposal will also address Articles 2 and 10 of Regulation (EC) No 1215/2009. This proposal will be presented as soon as possible after the Commission has adopted a proposal on the rules and general principles concerning the Commission's exercise of the implementing powers.
- (12) The Regulation does not incur costs charged to the EC budget. Its application would also not entail any losses of customs revenue compared to the current situation.
- (13) In the view of the above the present proposal aims to extend the validity of Council Regulation (EC) No 1215/2009 to 31 December 2015. The present proposal amends the Council Regulation (EC) No 1215/2009 in order to take into consideration the changes in respect to the products coverage.
- (14) In order not to disrupt trade, this Regulation has to be adopted and published in the Official Journal of the European Union before 31 December 2010. In the event this is not possible, the recital number 8 and the second paragraph of Article 3, which feature brackets in the Proposal, should be fully inserted in the Regulation in order to ensure, exceptionally, its retroactive application.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on 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 Commission,

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 2007/2000 of 18 September 2000⁴ introduced exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process, which provide for unlimited duty free access to the Union market for nearly all products originating in the countries and customs territories benefiting from the Stabilisation and Association process. As Council Regulation (EC) No 2007/2000 was substantially amended several times, it was codified by Council Regulation (EC) No 1215/2009 of 30 November 2009⁵.
- (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 Luxemburg 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 was signed and concluded. The Interim Agreement entered into force on 1 July 2008⁶.
- (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 Luxemburg on 29 April 2008. Pending the completion of the procedures necessary for its entry into force, an Interim Agreement on trade and trade-related

⁴ OJ L 240, 23.9.2000, p. 1.

⁵ OJ L 328, 15.12.2009, p. 1.

⁶ OJ L 233 30.8.2008, p. 6.

matters between the European Community, of the one part, and the Republic of Serbia, of the other part was signed and concluded. The Interim Agreement entered into force on 1 February 2010⁷.

- (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 granted for the same products under the contractual regime and to adjust the global tariff quota volumes for specific products for which tariff quotas have been granted under the contractual regimes. Bosnia and Herzegovina and Serbia should however remain beneficiaries of Regulation (EC) No 1215/2009 insofar as that Regulation provides for concessions which are more favourable than the concessions existing under the contractual regime. Council Regulation (EC) No 1215/2009 expires on 31 December 2010. Council Regulation (EC) No 1215/2009 remains the main instrument governing trade relations with Kosovo⁸. Continued access to the market of the European Union is crucial for the economic recovery of Kosovo and the whole region. At the same time, it will not create negative effects for the European Union.
- (5) For these reasons it is appropriate to extend the validity of Council Regulation (EC) No 1215/2009 to 31 December 2015.
- (6) In order to ensure the respect of the Union's international obligations, the preferences contained in this Regulation should be made conditional on continuation or renewal of the existing waiver from WTO obligations obtained by the European Union.
- (7) To protect the economic interest of operators it is necessary to provide for transitional measures for goods that are, at the date of entry into force of this Regulation in transit or in temporary storage in customs warehouses.
- (8) [In order not to disrupt trade, it is necessary for this Regulation to be applied as of 1 January 2011 given that Council Regulation (EC) 1215/2009 expires on 31 December 2010,]

HAVE ADOPTED THIS REGULATION:

Article 1

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

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

⁷ OJ L 28, 30.1.2010, p. 2.

⁸ As defined by UNSCR 1244/99.

"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, in Bosnia and Herzegovina, in Croatia, in the former Yugoslav Republic of Macedonia, in Montenegro or in Serbia shall continue to benefit from the provisions of this Regulation when so indicated. They shall also benefit from any concession provided for in this Regulation which is more favourable than the one provided for in the framework of bilateral agreements between the European Union and these countries."
- (2) In Article 2, paragraph 1, sub-paragraph (a) 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;"
- (3) In Article 3, 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.
- 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. This certificate shall be drawn up by the Commission in accordance with the procedure referred to in Article 195(2) of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁹."
- (4) In Article 3, paragraph 3 is deleted.
- (5) Article 4 is replaced by the following:

⁹ OJ L 299, 16.11.2007, p. 1.

"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 in accordance with the procedure referred to in Article 195(2) of Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)."

- (6) In Article 12, the second subparagraph 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, should the preferences provided in this Regulation not be permitted by a waiver granted by the World Trade Organisation. Such cessation of effects shall apply from the day on which the waiver is no longer in effect. Sufficiently prior to that date, the Commission shall publish a notice in the Official Journal of the European Union to inform operators and the competent authorities. The notice shall specify which preferences provided for by this Regulation are no longer in effect and the date from which the preferences are no longer in effect."

- (7) Annex I is replaced by the text in the Annex to this Regulation.

Article 2

Goods which, on 1 January 2011, are either in transit or are 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 Title IV, Chapter 2, Section 2 of Commission Regulation (EEC) 2454/93¹⁰, shall continue to benefit from Regulation (EC) No 1215/2009 until 1 May 2011.

Article 3

This Regulation shall enter into force on the third day following that 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.

¹⁰ OJ L 253, 11.10.1993, p. 1.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

ANNEX I

CONCERNING THE TARIFF QUOTAS REFERRED TO IN ARTICLE 4(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	Trout (<i>Salmo trutta</i> ,	15 tonnes	customs territory of Kosovo	0%
	0301 91 90	<i>Oncorhynchus mykiss</i> ,			
	0302 11 10	<i>Oncorhynchus clarki</i> ,			
	0302 11 20	<i>Oncorhynchus aguabonita</i> ,			
	0302 11 80	<i>Oncorhynchus gilae</i> ,			
	0303 21 10	<i>Oncorhynchus apache</i> and			
	0303 21 20	<i>Oncorhynchus chrysogaster</i>):			
	0303 21 80	live; fresh or chilled; frozen;			
	0304 19 15	dried, salted or in brine, smoked;			
	0304 19 17	fillets and other fish meat; flours, meals and pellets,			
	ex 0304 19 18	fit for human consumption			
	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				

Order No	CN Code	Description	Quota volume per year ¹	Beneficiaries	Rate of duty
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	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%

Order No	CN Code	Description	Quota volume per year ¹	Beneficiaries	Rate of duty
	ex 0305 69 80				
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 ex 0305 30 90 ex 0305 49 80 ex 0305 59 80 ex 0305 69 80	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
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 000hl ²	Albania ⁵ , Bosnia and Herzegovina ⁷ , Croatia ³ , former Yugoslav Republic of Macedonia ⁴ , Montenegro ⁶ , 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 the Republic of 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.

⁴ 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.

⁵ Access for wine originating in the Republic of 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.

⁶ Access for wine originating in Montenegro to the 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 quota is opened under order No 09.1514.

⁷ Access for wine originating in Bosnia and Herzegovina to the 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 quotas are opened under order Nos 09.1528 and 09.1529.

8 Access for wine originating in Serbia to the 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 quotas are opened under order Nos 09.1526 and 09.1527.

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL:

Regulation of the European Parliament and of the Council 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

2. BUDGET LINES:

Chapter and Article: 120

Amount budgeted for the year concerned (2010): 14 079 700 000 €

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

☒ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million to one decimal place)

Budget line	Revenue ¹¹	12 month period, starting 01/01/2011	[Year n]
Article 120	<i>Impact on own resources</i>	0.3	

¹¹ Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article ...					
Article ...					

4. ANTI-FRAUD MEASURES

In case of fraud or failure to provide administrative cooperation for the verification of evidence of origin or in case of a failure of compliance with the conditions set for the entitlement of the preferential arrangement, the Commission may take measures to suspend, in whole or in part, the arrangement provided for in the Council Regulation (EC) No 1215/2009.

5. OTHER REMARKS

The calculation of the financial impact is based on trade weighted MFN tariffs at HS2 level. The calculation was made on the basis of 2008 figures.

The impact on own resources is expressed as a net amount (i.e. calculated by deducting from the gross amount a 25% collection costs).

In respect to the preferential treatment for fruits and vegetables the calculation was based on the full elimination of the tariff. However, the actual loss is a fraction of the amounts indicated, because the preferential treatment refers only to a specific element of the total MFN value.

Table 2: EU main imports from Kosovo by import regime and estimated "loss" of EU tariff revenue, 2008 (€ million and %)

HS2	EU imports*	Preferential imports	MFN-0 imports	MFN tariff**	"Tariff loss"
	€ million	€ million	€ million	%	€ million
Sub-total	64.2	8.7	54.8	n.a.	0.4
Other HS2 imports	13.9	0.4	13.3	n.a.	n.a.
ALL PRODUCTS	78.1	9.2	68.1	n.a.	n.a.

Source: COMEXT and TRAINS. Note: * Minus imports under 'unknown' regime. ** Trade weighted