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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on amending Council Regulation (EC) No 1215/2009 in relation to tariff quotas for wine

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The European Union grants exceptional unlimited duty-free access to the EU market for nearly all products originating in the countries benefiting from the Stabilisation and Association process, through Council Regulation (EC) No 1215/2009 of 30 November 2009, except wine and baby beef, which remain subject to tariff quotas. The 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.

These trade preferences are granted for a period ending on 31 December 2015, and currently apply to Bosnia and Herzegovina, Serbia, Albania, the Republic of Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Kosovo*.

Stabilisation and Association Agreements and Interim Agreements grant in some instances a tariff quota for wine, sugar and baby beef. An additional global tariff quota for wine, of 50.000 hl, is provided in Council Regulation (EC) N° 1215/2009, open to all the beneficiaries subject to exhaustion of their specific quota available under the respective Stabilisation and Association Agreements or the Interim Agreements.

Kosovo has no Stabilisation and Association Agreement, and can only benefit of the general tariff quota. When this tariff quota is exhausted by other countries, Kosovan exporters have no preferential access to the EU market.

Kosovo has demonstrated the potential to export wine to the EU, and exporters need a stable and reliable framework.

Therefore, it is proposed to allocate a specific tariff quota of 20.000 hl to Kosovo, which is deducted from the global quota of 50.000 hl provided for in Council Regulation (EC) N° 1215/2009, hence reduced to 30.000 hl. This is achieved by closing the current tariff quota and establishing two new ones for the said amounts.

A mechanism is foreseen which eliminates the legal uncertainties deriving from the fact that the quotas are allocated on a first come – first served basis, and that the date of entry into force of this regulation can't be anticipated. In order to avoid expanding the overall volume of concessions, the quota reserved for Kosovo is applied on a pro-rata basis.

This reallocation does not affect the global volume of concession to the countries in the Western Balkans, and maintains stable wine market conditions in the EU. Specific tariff quotas established in Stabilisation and Association Agreements or Interim Agreements are not affected.

The proposed amendment does not incur costs charged to the EU budget. Its application would also not entail any losses of customs revenue compared to the current situation.

In the view of the above the present proposal aims to amending Annex 1 of Council Regulation (EC) N° 1215/2009, by establishing a specific quota of 20.000 hl for wine originating in Kosovo and reducing proportionately the global quota.

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 2013.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

**2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND
IMPACT ASSESSMENTS**

NA

3. LEGAL ELEMENTS OF THE PROPOSAL

Having regards to the Treaty on the Functioning of the European Union, and in particular Art 207 (2) thereof, and Council Regulation (EC) No 1215/2009 of 30 November 2009.

4. BUDGETARY IMPLICATION

NA

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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,

Whereas:

- (1) Since 2000 the Union grants unlimited duty free access to the Union market for almost all products originating in the Western Balkans. Currently, this system is provided for in Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries participating in or linked to the European Union's Stabilisation and Association process¹.
- (2) All the Western Balkans countries benefit from preferential trade arrangements, including individual tariff quotas, under the Stabilisation and Association Agreements or Interim Agreements on trade and trade-related matters concluded with these countries, with the exception of Kosovo*.
- (3) Regulation (EC) No 1215/2009, made available a general quota of 50.000 hl for wine, on a first-come first-served basis to all the beneficiaries, subject to the exhaustion of their specific quotas available under the Stabilisation and Association Agreements or Interim Agreements.
- (4) A stable access to the market of the Union is necessary for the socio-economic development of Kosovo, which has demonstrated the capacity to export wine. In the absence of an individual tariff quota, Kosovan producers lack the necessary predictability for their exports.
- (5) It is appropriate to allocate a specific annual tariff quota of 20 000 hl for wine exports from Kosovo to the EU, and to reduce proportionately the general annual tariff quota for wine available to all the beneficiaries from 50 000 hl to 30 000 hl.
- (6) The allocation of a specific tariff quota is achieved by closing the existing global tariff quota and opening two new ones, whose total volume is equivalent to the volume of the tariff quota closed.

¹ OJ L328, 15.12.2009, p. 1.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ opinion on the Kosovo Declaration of Independence.

- (7) It is also appropriate to introduce a mechanism which avoids legal uncertainties as regards the tariff quotas available on the day of entry into force of this regulation, and to prevent that the overall volume of the concession exceeds 50 000 hl.
- (8) As the total volume of the concessions is not modified, this regulation does not affect the wine sector of the Union. The specific concessions provided for in the Stabilisation and Association Agreements or the Interim Agreements are also not affected by this Regulation.
- (9) This regulation does not affect obligations of the Union in the World Trade Organisation (WTO) and does not need to receive a WTO waiver.
- (10) Regulation (EC) N° 1215/2009 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1215/2009 is replaced by the text set out in the Annex to this Regulation.

Article 2

The following transitional measures shall apply on the year of entry into force of this Regulation:

- (1) The new tariff quotas under the order numbers 09.1530 and 09.1560 shall inherit proportionally the balance of the tariff quota 09.1515 at the date of the entry into force of this regulation, with the following modalities:
 - (a) The initial amount of the tariff quota 09.1530 shall be calculated using the following formula:
$$0.6 \times \text{balance of the tariff quota 09.1515}^2 \text{ on the day of entry into force of this Regulation.}$$
 - (b) The initial amount of the tariff quota 09.1560 shall be calculated using the following formula:
$$0.4 \times \text{balance of the tariff quota 09.1515 on the day of entry into force of this Regulation.}$$
 - (c) Both initial amounts shall be rounded to the whole unit (hectoliter).
- (2) The pending (not allocated) tariff quota requests for the tariff quota 09.1515 shall be transferred to the tariff quotas 09.1530 and 09.1560 respectively, according to the origin of the wine.

² The balances of tariff quotas are published on the web pages of the European Commission, General Directorate of Taxation and Customs Union.

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*.

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

ANNEX

"ANNEX I

TARIFF QUOTAS REFERRED TO IN ARTICLE 3(1) of Council Regulation (EC) 1215/2009.

Notwithstanding the rules for the interpretation of the Combined Nomenclature (CN), 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 14 10 0303 14 20 0303 14 90 0304 42 10 0304 42 50 0304 42 90 ex 0304 52 00 0304 82 10 0304 82 50 0304 82 90 ex 0304 99 21 ex 0305 10 00 ex 0305 39 90 0305 43 00 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 73 00 0303 25 00 ex 0304 39 00 ex 0304 51 00 ex 0304 69 00 ex 0304 93 90	Carp (<i>Cyprinus carpio</i> , <i>Carassius carassius</i> , <i>Ctenopharyngodon idellus</i> , <i>Hypophthalmichthys</i> spp., <i>Cirrhinus</i> spp., <i>Mylopharyngodon piceus</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	20 tonnes	Customs territory of Kosovo	0%

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

Order No	CN Code	Description	Quota volume per year ¹	Beneficiaries	Rate of duty
	ex 0305 10 00 ex 0305 31 00 ex 0305 44 90 ex 0305 59 80 ex 0305 64 00				
09.1575	ex 0301 99 85 0302 85 10 0303 89 50 ex 0304 49 90 ex 0304 59 90 ex 0304 89 90 ex 0304 99 99 ex 0305 10 00 ex 0305 39 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 85 0302 84 10 0303 84 10 ex 0304 49 90 ex 0304 59 90 ex 0304 89 90 ex 0304 99 99 ex 0305 10 00 ex 0305 39 90	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 49 80				
	ex 0305 59 80				
	ex 0305 69 80				

Order No	CN Code	Description	Quota volume per year ¹	Beneficiaries	Rate of duty
09.1530	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	30 000 hl ²	Albania ³ Bosnia and Herzegovina ⁴ Croatia ⁵ , former Yugoslav Republic of Macedonia, ⁶ Montenegro ⁷ , Serbia ⁸ , Customs territory of Kosovo ⁹	Exemption

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 the global tariff quota is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Albania. This individual quota is opened under order No 09.1512 and 09.1513.

⁴ 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.

⁵ 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.

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 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.

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.

⁹ Access for wine originating in the customs territory of Kosovo to the global tariff quota is subject to the prior exhaustion of the tariff quota provided for in this Regulation. This individual quota is opened under order No 09.1560.

Order No	CN Code	Description	Quota volume per year ¹	Beneficiaries	Rate of duty
09.1560	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	20 000 hl	Customs territory of Kosovo	Exemption