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Proposal for a

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 and suspending its application with regard to Bosnia and Herzegovina

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The EU's policy towards the countries of the Western Balkans is defined within the Stabilisation and Association Process launched in May 1999 by the European Commission. At its meeting in Lisbon on 23 and 24 March 2000, the European Council concluded that Stabilisation and Association Agreements with Western Balkan countries should be preceded by asymmetrical trade liberalisation. Asymmetrical trade liberalisation has been provided for by means of Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process. Regulation (EC) No 1215/2009 applies until 31 December 2015.

Since the launch of the Stabilisation and Association Process, Stabilisation and Association Agreements have been concluded between the Union and all concerned Western Balkan countries, with the exception of Bosnia and Herzegovina and Kosovo.¹ Bosnia and Herzegovina was recognised as a potential candidate country for EU accession in 2003 and signed a Stabilisation and Association Agreement in 2008, agreeing to the EU's conditions for membership. Since then, an Interim Agreement on trade and trade-related matters with Bosnia and Herzegovina applies, pending the finalisation of the ratification process of the Stabilisation and Association Agreement.

Having regard to differences in the scope of the tariff liberalisation under the contractual regimes which have been developed between the Union and all participants to the Stabilisation and Association process and the preferences granted under Regulation (EC) No 1215/2009, it is suggested to prolong the duration of Regulation (EC) No 1215/2009 until 31 December 2020, so as to give the beneficiaries of the exceptional trade measures and the European Union sufficient time to align, where appropriate, preferences granted under Regulation (EC) No 1215/2009 with those provided for under the Stabilisation and Association Agreements. Following the enlargement of the European Union on 1 July 2013, Bosnia and Herzegovina have not yet accepted to adapt trade concessions granted under the Interim Agreement in order to take into account the preferential traditional trade between Croatia and Bosnia and Herzegovina under the Central European Free Trade Agreement (CEFTA). In case Bosnia and Herzegovina and the European Union do not find an agreement on the adaptation of trade concessions, preferences granted to Bosnia and Herzegovina under Regulation (EC) No 1215/2009 should be suspended as of 1 January 2016. Once Bosnia and Herzegovina and the European Union have signed and applied provisionally an agreement on the adaptation of trade concessions in the Interim Agreement, these preferences will be re-established.

Article 21(1) of the EU Treaty provides that the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world, including democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms and respect for human dignity. The Union must respect and promote those principles also in its external action, including its common commercial policy. Regulation (EC) No 1215/2009 does not provide any possibility to temporarily suspend the grant of exceptional trade measures in case of serious and systematic violations of the fundamental principles of human rights, democracy and the rule of law by its beneficiaries. It is appropriate to introduce such possibility, so as to ensure that swift action can be taken in case serious and systematic

¹ 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.

violations of the fundamental principles of human rights, democracy and the rule of law would occur in one of the countries and territories participating in or linked to the European Union's Stabilisation and Association process.

Finally, a technical adjustment regarding Montenegro's access to the additional global quota for wine imports is included.

2. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis for the proposal is Article 207(2) of the Treaty on the Functioning of the European Union.

3. BUDGETARY IMPLICATION

The proposed Regulation does not incur additional costs charged to the EU budget. For the years 2015 to 2020 there will be no additional loss of tariff revenue in respect of products originating from the current beneficiaries. Hypothetical revenue that could have been generated by future exports is not considered as a loss of tariff revenue.

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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) Council Regulation (EC) No 1215/2009² provides for asymmetrical trade liberalisation between the Union and the Western Balkan countries and territories concerned, granting them the benefit of exceptional and unlimited duty-free access to the Union market for almost all their products until 31 December 2015.
- (2) Regulation (EC) No 1215/2009 does not provide any possibility to temporarily suspend the grant of exceptional trade measures in case of serious and systematic violations of the fundamental principles of human rights, democracy and the rule of law by its beneficiaries. It is appropriate to introduce such possibility, so as to ensure that swift action can be taken in case serious and systematic violations of the fundamental principles of human rights, democracy and the rule of law would occur in one of the countries and territories participating in or linked to the European Union's Stabilisation and Association process.
- (3) Having regard to differences in the scope of the tariff liberalisation under the contractual regimes which have been developed between the Union and all participants to the Stabilisation and Association process and the preferences granted under Regulation (EC) No 1215/2009, it is suggested to extend the period of application of Regulation (EC) No 1215/2009 until 31 December 2020, so as to give the beneficiaries of the exceptional trade measures and the European Union sufficient time to align - where appropriate - preferences granted under Regulation (EC) No 1215/2009 with those provided for under the Stabilisation and Association Agreements.
- (4) Regulation (EC) No 1215/2009 provides for a global quota for imports into the Union of wine with the Combined Nomenclature (CN) codes 220421 93-220421 98 and 220429 93-220429 98. This quota is accessible to all Western Balkan countries or

² 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).

territories on exhaustion of their individual wine quota, as stipulated in their bilateral Stabilisation and Association Agreements, with the exception of Montenegro. The Protocol on wine agreed with Montenegro includes a wine quota only for the CN codes ex220410 and ex220421, which they have not been in a position to fill. This effectively prevents Montenegro from accessing a duty-free wine quota for products not covered by its Stabilisation and Association Agreement. In order to ensure that all concerned Western Balkan countries and territories are treated on an equal footing, it is appropriate to provide that Montenegro be also given access to the global wine quota for products of CN code 220429, without the need to exhaust the individual quota.

- (5) Since the launch of the Stabilisation and Association Process, Stabilisation and Association Agreements have been concluded with all concerned Western Balkan countries, with the exception of Bosnia and Herzegovina and Kosovo³. In June 2013, the Council authorised the Commission to start negotiations for a Stabilisation and Association Agreement with Kosovo.
- (6) Bosnia and Herzegovina was recognised as a potential candidate country for accession to the Union in 2003 and on 16 June 2008 signed a Stabilisation and Association Agreement ('the Stabilisation and Association Agreement'), agreeing to the conditions for membership of the Union. Since then, an Interim Agreement on trade and trade-related matters with Bosnia and Herzegovina⁴ ('the Interim Agreement') applies, pending the finalisation of the ratification process of the Stabilisation and Association Agreement.
- (7) However, Bosnia and Herzegovina has not yet accepted to adapt trade concessions granted under the Interim Agreement in order to take into account the preferential traditional trade between Croatia and Bosnia and Herzegovina under the Central European Free Trade Agreement (CEFTA). In case, by the time of the adoption of this Regulation, an agreement on the adaptation of the trade concessions set out in the Stabilisation and Association Agreement and in the Interim Agreement has not been signed and provisionally applied by European Union and Bosnia and Herzegovina, the preferences granted to Bosnia and Herzegovina should be suspended as from 1 January 2016. Once Bosnia-Herzegovina and the European Union will have signed and provisionally applied an agreement on the adaptation of trade concessions in the Interim Agreement, those preferences should be re-established,

HAVE ADOPTED THIS REGULATION:

Article 1

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

- (1) In Article 2(1), the following point (d) is added:

"(d) the abstention of the countries and territories referred to in Article 1 from engaging in serious and systematic violations of human rights, including core labour rights, fundamental principles of democracy and the rule of law."
- (2) In Article 12, the second and the third paragraphs are replaced by the following:

"It shall apply until 31 December 2020."

³ 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.

⁴ Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part (OJ L 233, 30.8.2008, p. 6).

(3) In Annex I footnote (5) is replaced by the following text:

"(5) Access for wine originating in Montenegro to the global tariff quota, insofar as it concerns products of CN code 2204 21, 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."

Article 2

The application of Regulation (EC) No 1215/2009 with regard to Bosnia and Herzegovina is suspended with effect from 1 January 2016.

Article 3

1. Notwithstanding Article 2, the application of Regulation (EC) No 1215/2009 with regard to Bosnia and Herzegovina shall not be suspended if, before 1 January 2016, the European Union and Bosnia and Herzegovina sign and apply provisionally an agreement on the adaptation of the Stabilisation and Association Agreement and the Interim Agreement to take into account the accession of Croatia to the European Union.
2. In the event that the agreement referred to in paragraph 1 is not signed and applied provisionally before 1 January 2016, Regulation (EC) No 2115/2009 shall be applicable again with regard to Bosnia and Herzegovina from the date on which such agreement is signed and applied provisionally.
3. The Commission shall publish a notice in the *Official Journal of the European Union* as soon as agreement referred to in paragraph 1 has been signed.

Article 4

This Regulation shall enter into force on the seventh 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