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

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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.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/540 of the European Parliament and of the Council. (See end of Document for details)*

(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) No 19/2013 of the European Parliament and of the Council[(4)] and Regulation (EU) No 20/2013 of the European Parliament and of the Council[(5)]. 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 Columbia, 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.

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

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/540 of the European Parliament and of the Council. (See end of Document for details)*

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