Regulation (EU) 2017/355 of the European Parliament and of the Council of 15 February 2017 on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo* of the other part

REGULATION (EU) 2017/355 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 February 2017

on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo[(1)] of the other part

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 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[(2)],

Whereas:

(1) The Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo[(1)] of the other part[(3)], (the 'Agreement') was signed on 27 October 2015. The Agreement entered into force on 1 April 2016.

(2) It is necessary to lay down rules for the implementation of certain provisions of the Agreement, as well as the procedures for the adoption of detailed rules of implementation.

(3) In order to ensure uniform conditions for the implementation of the Agreement, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(4)]. In accordance with that Regulation, the examination procedure applies, in particular, for the adoption of implementing acts relating to the common commercial policy. However, the advisory procedure may apply in duly justified cases. Where the Agreement provides for the possibility, in exceptional and critical circumstances, to apply forthwith measures necessary to deal with the situation, the Commission should adopt such implementing acts immediately. The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to measures concerning agricultural and fishery products, imperative grounds of urgency so require.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/355 of the European Parliament and of the Council. (See end of Document for details)*

(4) The Agreement stipulates that certain agricultural and fishery products originating in Kosovo may be imported into the Union at a reduced customs duty, within the limits of tariff quotas. It is therefore necessary to lay down provisions regulating the management and review of these tariff quotas in order to allow for their thorough assessment.

(5) Where trade defence measures become necessary, they should be adopted in accordance with Regulation (EU) 2015/478 of the European Parliament and of the Council[(5)], Regulation (EU) 2016/1036 of the European Parliament and of the Council[(6)] or, as the case may be, Regulation (EU) 2016/1037 of the European Parliament and of the Council[(7)].

(6) Where a Member State provides information to the Commission on a possible case of fraud or failure to provide administrative cooperation, the relevant Union legislation should apply, in particular Council Regulation (EC) No 515/97[(8)].

(7) This Regulation contains implementing measures for the Agreement, and should thus apply from the entry into force of the Agreement,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the rules and procedures for the adoption of detailed rules for the implementation of certain provisions of the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo[(1)], of the other part (the 'Agreement').

Article 2

Concessions for fish and fishery products

The Commission shall adopt detailed rules on the implementation of Article 31 of the Agreement, concerning the tariff quotas for fish and fishery products, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

Article 3

Tariff reductions

1 Subject to paragraph 2, rates of preferential duty shall be rounded down to the first decimal place.

2 The preferential rate shall be considered to be full exemption where the result of calculating the rate of preferential duty in accordance with paragraph 1 is one of the following:

a 1 % or less in the case of *ad valorem* duties;

b EUR 1 or less per individual amount in the case of specific duties.

Article 4

Technical adaptations

The Commission shall adopt amendments and technical adaptations to the provisions adopted pursuant to this Regulation which are necessary following changes to the Combined Nomenclature codes and to the Integrated Tariff of the European Communities subdivisions or arising from the conclusion of new or modified agreements, protocols, exchanges of letters or other acts between the Union and Kosovo, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

Article 5

General safeguard clause

Where the Union needs to take a measure as provided for in Article 43 of the Agreement, the Commission shall adopt that measure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation, unless otherwise specified in Article 43 of the Agreement.

Article 6

Shortage clause

Where the Union needs to take a measure as provided for in Article 44 of the Agreement, the Commission shall adopt that measure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

Article 7

Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of Article 43(5)(b) and Article 44(4) of the Agreement, the Commission may take immediately applicable measures as provided for in Articles 43 and 44 of the Agreement, in accordance with the procedure referred to in Article 12(4) of this Regulation.

Article 8

Safeguard clause for agricultural and fishery products

1 Notwithstanding the procedures provided for in Articles 5 and 6 of this Regulation, where the Union needs to take a measure as provided for in Article 34 or 43 of the Agreement, concerning agricultural and fishery products, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures after, where applicable, having had recourse to the referral procedure provided for in Article 43 of the Agreement.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2017/355 of the European Parliament and of the Council. (See end of Document for details)*

Those measures shall be adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(3) of this Regulation.

On duly justified imperative grounds of urgency, including the case referred to in paragraph 2 of this Article, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 12(4) of this Regulation.

2 If the Commission receives the request referred to in paragraph 1 from a Member State, it shall take a decision thereon:

a within three working days following the receipt of that request, where the referral procedure provided for in Article 43 of the Agreement does not apply; or

b within three working days of the end of the 30-day period referred to in Article 43(5)(a) of the Agreement, where the referral procedure provided for in Article 43 of the Agreement applies.

The Commission shall notify the Council of the measures upon which it has decided.

Article 9

Dumping and subsidy

In the event of a practice that may cause the Union to take the measures provided for in Article 42(2) of the Agreement, the introduction of anti-dumping or countervailing measures, or both, shall be decided in accordance with the provisions laid down in Regulation (EU) 2016/1036 and Regulation (EU) 2016/1037, respectively.

Article 10

Competition

1 In the event of a practice which the Commission considers to be incompatible with Article 75 of the Agreement, the Commission shall, after examining the case on its own initiative or at the request of a Member State, decide upon the appropriate measure provided for in Article 75 of the Agreement.

The measures provided for in Article 75(9) of the Agreement shall be adopted in the cases of aid in accordance with the procedures laid down in Regulation (EU) 2016/1037.

2 In the event of a practice that may cause measures to be applied to the Union by Kosovo on the basis of Article 75 of the Agreement, the Commission shall, after examining the case, decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, the Commission shall take appropriate decisions on the basis of criteria which result from the application of Articles 101, 102 and 107 of the Treaty.

Article 11

Fraud or failure to provide administrative cooperation

1 Where the Commission, on the basis of information provided by a Member State or on its own initiative, finds that the conditions laid down in Article 48 of the Agreement are fulfilled, it shall, without undue delay: