Regulation (EU) 2015/941 of the European Parliament and of the Council of 9 June 2015 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part (codification)

REGULATION (EU) 2015/941 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 June 2015

on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part

(codification)

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) Council Regulation (EC) No 153/2002[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality, that Regulation should be codified.

(2) A Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part[(4)] ('SAA'), was signed in Luxembourg on 9 April 2001 and entered into force on 1 April 2004.

(3) It is necessary to lay down the procedures for applying certain provisions of the SAA.

(4) The SAA stipulates that certain products originating in the former Yugoslav Republic of Macedonia 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 for the calculation of the reduced rates of customs duties.

(5) The SAA specifies the products eligible for those tariff measures, the relevant volumes (and increases thereof), the applicable duties, periods of application and any eligibility criteria.

(6) In the interest of simplicity and of timely publication of Regulations implementing Union tariff quotas, provision should be made for the Commission, assisted by the Committee established by Article 229 of Regulation (EU) No 1308/2013 of the

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/941 of the European Parliament and of the Council. (See end of Document for details)*

European Parliament and of the Council[5], to adopt the Regulations opening up and providing for the administration of the tariff quotas for 'baby beef' products.

(7) Provision should be made for the Commission, assisted by the Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[6], to adopt the Regulations opening and providing for the administration of tariff quotas which might be granted as a result of negotiations on further tariff concessions pursuant to Article 29 of the SAA.

(8) Duties should be totally suspended where preferential treatment results in *ad valorem* duties of 1 % or less, or in specific duties of EUR 1 or less.

(9) The implementation of the bilateral safeguard clauses of the SAA requires uniform conditions for the adoption of safeguard and other measures. Those measures should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[7].

(10) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to exceptional and critical circumstances arising within the meaning of point (b) of Article 37(4) and Article 38(4) of the SAA, imperative grounds of urgency so require,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down certain procedures for the adoption of detailed rules for the implementation of certain provisions of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part ('SAA').

Article 2

Concessions on 'baby beef'

Detailed rules for the implementation of Article 27(2) of the SAA, concerning the tariff quota for 'baby beef' products shall be adopted by the Commission in accordance with the examination procedure referred to in Article 12(4) of this Regulation.

Article 3

Further concessions

If additional concessions for fishery products are granted within tariff quotas, pursuant to Article 29 of the SAA, detailed rules for the implementation of those tariff quotas shall be adopted by the Commission in accordance with the examination procedure referred to in Article 12(4) of this Regulation.

Article 4

Tariff reductions

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

2 Where the result of calculating the rate of preferential duty pursuant to paragraph 1 is one of the following, the preferential rate shall be considered a full exemption:

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

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

Article 5

Technical adaptations

Amendments and technical adaptations to the detailed rules on implementation adopted pursuant to this Regulation which are necessary following changes to the Combined Nomenclature codes and to the TARIC subdivisions, or arising from the conclusion of new agreements, protocols, exchanges of letters or other acts between the Union and the former Yugoslav Republic of Macedonia, shall be adopted in accordance with the examination procedure referred to in Article 12(4).

Article 6

General safeguard clause and shortage clause

1 Where a Member State requests the Commission to take measures as provided for in Articles 37 and 38 of the SAA, it shall provide the Commission, in support of its request, with the information needed to justify it.

2 Where the Commission, at the request of a Member State or on its own initiative, finds that the conditions laid down in Articles 37 and 38 of the SAA are fulfilled, it shall:

a inform the Member States forthwith if acting on its own initiative or, if it is responding to a Member State's request, within 5 working days of the date of receipt of that request;

b consult the Committee referred to in Article 12(3) of this Regulation on the proposed measures;

c at the same time inform the former Yugoslav Republic of Macedonia and notify it of the opening of the consultations within the Stabilisation and Association Committee as provided for in Articles 37(4) and 38(3) of the SAA;

d at the same time provide the Stabilisation and Association Committee with all the information necessary for the consultations referred to in point (c).

3 On the completion of the consultations referred to in point (c) of paragraph 2, and if no other arrangement proves possible, the Commission may decide in accordance with the examination procedure referred to in Article 12(4) of this Regulation either not to act or to adopt appropriate measures provided for in Articles 37 and 38 of the SAA.

That Decision shall be notified forthwith to the Council and to the Stabilisation and Association Committee.

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That Decision shall be applicable immediately.

4 The consultations within the Stabilisation and Association Committee referred to in point (c) of paragraph 2 shall be deemed to be completed 30 days after the notification also referred to in that point.

Article 7

Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of point (b) of Article 37(4) and Article 38(4) of the SAA, the Commission may take immediate measures as provided for in Articles 37 and 38 of the SAA, in accordance with the examination procedure referred to in Article 12(4) of this Regulation, or in cases of urgency, in accordance with Article 12(5) of this Regulation.

If the Commission receives a request from a Member State, it shall take a Decision thereon within 5 working days of receipt of the request.

Article 8

Safeguard clause for agricultural and fisheries products

Notwithstanding the procedures set out in Articles 6 and 7, necessary measures concerning agricultural and fisheries products on the basis of Article 30 or 37 of the SAA, or on the basis of provisions in the Annexes to the SAA covering those products, as well as of Protocol 3 thereto, may be taken in accordance with procedures provided for by the relevant rules establishing the common organisation of the agricultural markets or markets in fishery and aquaculture products, or in specific provisions adopted pursuant to Article 352 of the Treaty and applicable to products resulting from the processing of agricultural and fisheries products, provided that the conditions established pursuant to Article 30 of the SAA or Article 37(3), (4) and (5) of the SAA are met.

Article 9

Dumping

In the event of a practice which is liable to warrant application by the Union of the measures provided for in Article 36(1) of the SAA, the introduction of anti-dumping measures shall be decided upon in accordance with the provisions laid down in Council Regulation (EC) No 1225/2009[(8)] and the procedure provided for in Article 36(2) of the SAA.

Article 10

Competition

1 In the event of a practice that may justify application by the Union of the measures provided for in Article 69 of the SAA, the Commission, after examining the case, on its own initiative or at the request of a Member State, shall decide whether such practice is compatible with the SAA. Where necessary it shall adopt safeguard measures in accordance with the

examination procedure referred to in Article 12(4) of this Regulation, except in the cases of aid to which Council Regulation (EC) No 597/2009[9] applies, where measures shall be taken in accordance with the procedures laid down in that Regulation. Measures shall be taken only under the conditions set out in Article 69(5) of the SAA.

2 In the event of a practice that may cause measures to be applied to the Union by the former Yugoslav Republic of Macedonia on the basis of Article 69 of the SAA, the Commission, after examining the case, shall decide whether such practice is compatible with the principle set out in the SAA. Where necessary, it 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 For the purpose of interpreting Article 42 of the SAA, failure to provide administrative cooperation as required for the verification of evidence of origin shall mean, inter alia:

a the absence of administrative cooperation, such as the failure to provide names and addresses of customs or government authorities responsible for issuing and checking certificates of origin, or specimens of stamps used to authenticate the certificates, or the failure to update that information where appropriate;

b a repeated lack or inadequacy of action in verifying the originating status of products and the fulfilment of the other requirements of Protocol 4 to the SAA and identifying or preventing contravention of the rules of origin;

c a repeated refusal to carry out, or undue delay in carrying out, at the request of the Commission, subsequent verification of the proof of origin and to communicate its results in time;

d a repeated refusal to obtain, or undue delay in obtaining, the authorisation to conduct administrative and investigative cooperation missions in the former Yugoslav Republic of Macedonia, in order to verify the authenticity of documents or the accuracy of information relevant for granting the preferential treatment granted under the SAA, or to carry out, or arrange for, appropriate inquiries to identify or prevent contravention of the rules of origin;

e a repeated failure to comply with the provisions of Protocol 5 to the SAA on mutual administrative assistance in customs matters insofar as it is relevant to the application of the trade provisions of the SAA.

2 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 42 of the SAA are fulfilled it shall:

a inform the Council;

b enter immediately into consultations with the former Yugoslav Republic of Macedonia to find an appropriate solution as provided for in Article 42 of the SAA.

In addition, the Commission may:

a call on the Member States to take such precautionary measures as are necessary in order to safeguard the Union's financial interests;

b publish a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubts about the application of the provisions relevant to the application of Article 42 of the SAA.