Regulation (EU) 2015/752 of the European Parliament and of the Council of 29 April 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 Republic of Montenegro, of the other part (codification)

REGULATION (EU) 2015/752 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 29 April 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 Republic of Montenegro, 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,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Council Regulation (EC) No 140/2008[(3)] has been substantially amended[(4)]. 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 Republic of Montenegro, of the other part[(5)] ('SAA'), was signed on 15 October 2007 and entered into force on 1 May 2010.

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

(4) The SAA stipulates that fishery products originating in Montenegro 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 of those tariff quotas.

(5) Where trade defence measures become necessary, they should be adopted in accordance with the general provisions laid down in Regulation (EU) 2015/478 of the European Parliament and of the Council[(6)], Regulation (EU) 2015/479 of the European Parliament and of the Council[(7)], Council Regulation (EC) No 1225/2009[(8)] or, as the case may be, Council Regulation (EC) No 597/2009[(9)].

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(6) Where a Member State provides the Commission with information on a possible fraud or failure to provide administrative cooperation, the relevant Union legislation shall apply, in particular Council Regulation (EC) No 515/97[(10)].

(7) For the purposes of implementing the relevant provisions of this Regulation the Commission should be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[(11)].

(8) 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[(12)].

(9) 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 41(5) and Article 42(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 Republic of Montenegro, of the other part ('SAA').

Article 2

Concessions for fish and fishery products

Detailed rules on the implementation of Article 29 of the SAA, concerning the tariff quotas for fish and fishery products, shall be adopted by the Commission in accordance with the examination procedure referred to in Article 9(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 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 4

Technical adaptations

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 TARIC subdivisions, or arising from the conclusion of new or modified agreements, protocols, exchanges of letters or other acts between the Union and Montenegro, shall be adopted in accordance with the examination procedure referred to in Article 9(3).

Article 5

General safeguard clause

Where the Union needs to take a measure as provided for in Article 41 of the SAA, that measure shall be adopted in accordance with the examination procedure referred to in Article 9(3) of this Regulation, unless otherwise specified in Article 41 of the SAA.

Article 6

Shortage clause

Where the Union needs to take a measure as provided for in Article 42 of the SAA, that measure shall be adopted in accordance with the examination procedure referred to in Article 9(3) of this Regulation.

Article 7

Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of point (b) of Article 41(5) and Article 42(4) of the SAA, the Commission may take immediate measures as provided for in Articles 41 and 42 of the SAA.

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

The Commission shall take the measures referred to in the first paragraph in accordance with the examination procedure referred to in Article 9(3) of this Regulation. In cases of urgency, Article 9(4) of this Regulation shall apply.

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 safeguard measure, as provided for in Article 41 of the SAA, concerning agricultural and fishery products, the Commission shall, at the request of a Member

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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 41 of the SAA.

If the Commission receives a request from a Member State, it shall take a decision thereon:

a within three working days of the receipt of a request, where the referral procedure provided for in Article 41 of the SAA does not apply; or

b within three days of the end of the 30-day period referred to in point (a) of Article 41(5) of the SAA, where the referral procedure provided for in Article 41 of the SAA applies.

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

2 The Commission shall take such measures in accordance with the examination procedure referred to in Article 9(3). In cases of urgency, Article 9(4) shall apply.

Article 9

Committee procedure

1 For the purpose of Article 4 of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 For the purpose of Articles 5 to 8 of this Regulation, the Commission shall be assisted by the Committee on Safeguards established by Article 3(1) of Regulation (EU) 2015/478. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 10

Dumping and subsidy

In the event of a practice which is liable to warrant application by the Union of the measures provided for in Article 40(2) of the SAA, the introduction of anti-dumping and/or countervailing measures shall be decided upon in accordance with the provisions laid down in Regulation (EC) No 1225/2009 and/or Regulation (EC) No 597/2009, respectively.

Article 11

Competition

1 In the event of a practice which may justify application by the Union of the measures provided for in Article 73 of the SAA, the Commission shall, after examining the case, on its own initiative or on the request of a Member State, decide whether such practice is compatible with the SAA.