

Exceptional trade measures for countries and territories participating in or linked to the Stabilisation and Association process

2010/0036(COD) - 30/08/2010

The Committee on International Trade adopted the report by Vital MOREIRA (S&D, PT) on the 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.

The committee recommends that Parliament's position adopted in first reading according to the ordinary legislative procedure (formerly the codecision procedure) amends the Commission's proposal.

The amendments essentially seek to take into account the entry into force of the Lisbon Treaty as regards the possibility of adopting delegated acts and make reference to the necessary alignment of decision-making procedures following the entry into force of the regulation establishing the general rules and principles regarding mechanisms for control by Member States of the Commission's exercise of implementing powers.

The amendments are as follows:

Article 2 (2), subparagraph 2 of Regulation No 1215/2009 provides that measures to change or to interrupt the entitlement to benefit from the preferential arrangements introduced by that Regulation is subject to the will of beneficiary countries to engage in effective economic reforms and in regional cooperation with other countries concerned by the EU's stabilisation and association process, notably by the establishment of free trade zones, in accordance with Article XXIV of the 1994 GATT Agreement and other related WTO provisions. Members wish to specify that if this condition is not respected, the European Parliament and the Council may take appropriate measures.

The amending Regulation proposes to modify Article 3 (2) of Regulation 1215/2009. This provides that the competent authorities of exporting countries to issue an authenticity certificate in cases of requests for imports within the quota. According to the amending Regulation, the certificate is drawn up by the Commission. Members' understanding is that the Commission prepares some kind of template for the certificate. Given that the template is more a tool for implementation rather than a measure of general application which would supplement or amend the basic act, it is recommended to consider them as implementing acts according to Article 291 TFEU.

Article 3 (4) of Regulation 1215/2009 applies for measures which the Commission may take should imports of agricultural and fishery products cause serious disturbance to the EU markets and their regulatory mechanism. This article provides a very broad discretion for the Commission and the measure could lead to an effective amendment of Regulation 1215/2009. Members consider that delegated acts are the appropriate measure since the required criteria of Article 290 TFEU (measures of general application and amendment of the basic act) would concur.

The amending Regulation also proposes the modification of Article 4. With regard to baby beef, Annex II of the amending Regulation provides a definition of baby beef products and Article 3 (2° of the main regulation defines the customs duties applicable to its import and the volume of the annual tariff quota. Accordingly, the Commission provides the implementing tools/uniform conditions for the Member States

to be in a position to properly implement the quota/customs duties. The intention of the detailed rules is to provide a system for implementation which the Commission should adopt§ in accordance with the advisory procedure (as laid down in Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission - comitology).

Article 7 provides for the Commission to introduce amendments and technical adjustments necessary following amendments to the Combined Nomenclature code and to the TARIC subdivisions and necessary adjustments following the conclusion of the other agreements between the Community and the countries and territories referred to in Article 1. In practice, Members assume that this provision implies that the Commission can amend the annexes as well as the articles of the regulation themselves. Since the result of these measures is the production of amendments to the basic regulation, in particular its annexes, delegated acts should apply.

Lastly, Members inserted Articles 7a, 7b, 7c and 7d with a view to establishing the rules for the exercise, revocation, and the eventual objection to delegated acts.