

REGULATION (EU) 2020/2172 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 16 December 2020

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 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 1215/2009 ⁽²⁾ provided for unlimited duty free access to the Union market for nearly all products originating in the participants in the Stabilisation and Association process to the extent that and until such time as bilateral agreements with those beneficiary parties were concluded.
- (2) Stabilisation and Association Agreements have now been concluded with all six beneficiary parties. 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, is the last one to be concluded and entered into force on 1 April 2016.
- (3) Commission Delegated Regulation (EU) 2017/1464 ⁽³⁾ amended Regulation (EC) No 1215/2009, removing the bilateral preferences granted to Kosovo but maintaining the unilateral preference granted to all Western Balkan beneficiary parties in the form of the suspension of all duties for products covered by Chapters 7 and 8 of the Combined Nomenclature and their access to the global wine tariff rate quota of 30 000 hl.
- (4) Having regard to differences in the scope of the tariff liberalisation under the regimes provided for under the Stabilisation and Association Agreements between the Union and all participants in the Stabilisation and Association process and the preferences granted under Regulation (EC) No 1215/2009, it is appropriate to extend the period of application of Regulation (EC) No 1215/2009 until 31 December 2025.
- (5) The extension of the period of application of Regulation (EC) No 1215/2009 is considered to be a suitable guarantee of the Union's enhanced engagement and commitment to the trade integration of the Western Balkans. The current system of autonomous trade measures remains a valuable support for the economies of the Western Balkan partners.
- (6) In addition, the denomination of two beneficiary parties needs to be amended to reflect the latest agreed terminology.
- (7) Regulation (EC) No 1215/2009 should therefore be amended accordingly,

⁽¹⁾ Position of the European Parliament of 11 November 2020 (not yet published in the Official Journal) and decision of the Council of 1 December 2020.

⁽²⁾ Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (OJ L 328, 15.12.2009, p. 1).

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

⁽³⁾ Commission Delegated Regulation (EU) 2017/1464 of 2 June 2017 amending Council Regulation (EC) No 1215/2009 as regards trade concessions granted to Kosovo* following the entry into force of 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 (OJ L 209, 12.8.2017, p. 1).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1215/2009 is amended as follows:

- (1) Articles 1 and 2 are replaced by the following:

Article 1

Preferential arrangements

1. Products originating in Albania, Bosnia and Herzegovina, Kosovo *, Montenegro, North Macedonia, and Serbia (the beneficiary parties) covered by Chapters 7 and 8 of the Combined Nomenclature shall be admitted for import into the Union without quantitative restrictions or measures having equivalent effect, and with exemption from custom duties and charges having equivalent effect.

2. Products originating in the beneficiary parties shall continue to benefit from the provisions of this Regulation where so indicated therein. Such products shall also benefit from any concession provided for in this Regulation which is more favourable than that provided for under bilateral agreements between the Union and those beneficiary parties.

Article 2

Conditions for entitlement to the preferential arrangements

1. Entitlement to benefit from the preferential arrangements introduced by Article 1 shall be subject to the following conditions:

- (a) compliance with the definition of “originating products” provided for in Title II, Chapter 1, Section 2, Subsections 4 and 5 of Commission Delegated Regulation (EU) 2015/2446 (*), and Title II, Chapter 2, Section 2, Subsections 10 and 11 of Commission Implementing Regulation (EU) 2015/2447 (**);
- (b) abstention of the beneficiary parties from introducing new duties and charges having equivalent effect and new quantitative restrictions or measures having equivalent effect in respect of imports originating in the Union, from increasing existing levels of duties or charges or from introducing any other restrictions from 30 September 2000;
- (c) the involvement of beneficiary parties in effective administrative cooperation with the Union in order to prevent any risk of fraud; and
- (d) abstention of the beneficiary parties from engaging in serious and systematic violations of human rights, including core labour rights, of fundamental principles of democracy and of the rule of law.

2. Without prejudice to the conditions set out in paragraph 1 of this Article, entitlement to benefit from the preferential arrangements referred to in Article 1 shall be subject to the readiness of the beneficiary parties to engage in effective economic reforms and in regional cooperation with other countries involved in the European Union's Stabilisation and Association process, in particular through the establishment of free trade areas in accordance with Article XXIV of the GATT 1994 and other relevant WTO provisions.

In the event of non-compliance with the first subparagraph, the Council may take the appropriate measures by a qualified majority vote, on the basis of a Commission proposal.

3. In the event of non-compliance by a beneficiary party with point (a), (b) or (c) of paragraph 1 or with paragraph 2 of this Article, the Commission may, by means of implementing acts, suspend, in whole or in part, the entitlement of the beneficiary party concerned to benefits under this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

(*) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

(**) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).;

(2) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For certain wine products, as listed in Annex I, originating in the beneficiary parties, the customs duties applicable to imports into the Union shall be suspended during the periods, at the levels, within the limits of the Union tariff quota and under the conditions indicated for each product and origin set out in that Annex.’;

(b) paragraph 2 is deleted;

(3) Article 4 is deleted;

(4) in Article 5, the first paragraph is replaced by the following:

‘The tariff quotas referred to in Article 3(1) of this Regulation shall be administered by the Commission in accordance with Title II, Chapter 1, Section 1 of Implementing Regulation (EU) 2015/2447.’;

(5) in Article 7, points (b) and (c) are replaced by the following:

‘(b) necessary adjustments following the granting of trade preferences under other arrangements between the Union and the beneficiary parties;

(c) suspension, in whole or in part, of the entitlement of a beneficiary party concerned to benefits under this Regulation, in the event of non-compliance by that beneficiary party with point (d) of Article 2(1).’;

(6) in Article 8, paragraph 3 is deleted;

(7) In Article 10, paragraph 1 is replaced by the following:

‘1. Where the Commission finds that there is sufficient evidence of fraud or failure to provide administrative cooperation as required for the verification of evidence of origin, or that there is a massive increase in exports into the Union above the level of normal production and export capacity or a failure of compliance with point (a), (b) or (c) of Article 2(1) by the beneficiary parties, it may take measures to suspend in whole or in part the arrangements provided for in this Regulation for a period of three months, provided that it has first:

(a) informed the Western Balkans Implementation Committee;

(b) called on the Member States to take such precautionary measures as are necessary in order to safeguard the Union’s financial interests and/or to secure compliance by the beneficiary parties with Article 2(1);

(c) published a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubts about the application of the preferential arrangements and/or compliance with Article 2(1) by the beneficiary party concerned which may call into question its right to continue enjoying the benefits granted by this Regulation.

The measures referred to in the first subparagraph of this paragraph shall be adopted by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(4).;

(8) in Article 12, the second paragraph is replaced by the following:

'It shall apply until 31 December 2025.';

(9) Annex I is replaced by the text in the Annex to this Regulation;

(10) Annex II is deleted.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
M. ROTH

ANNEX

'ANNEX I

CONCERNING THE TARIFF QUOTAS REFERRED TO IN ARTICLE 3(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by the application of the CN code and the corresponding description, taken together.

Order No	CN Code	Description	Quota volume per year ⁽¹⁾	Beneficiary parties	Rate of duty
09.1530	ex 2204 21 94 ex 2204 21 95 ex 2204 21 96 ex 2204 21 97 ex 2204 21 98 ex 2204 22 93 ex 2204 22 94 ex 2204 22 95 ex 2204 29 93 ex 2204 29 94 ex 2204 29 95	Wine of fresh grapes, of an actual alcoholic strength by volume not exceeding 15 % vol, other than sparkling wine	30 000 hl	Albania ⁽²⁾ , Bosnia and Herzegovina ⁽³⁾ , Kosovo ⁽⁴⁾ , Montenegro ⁽⁵⁾ , North Macedonia ⁽⁶⁾ , Serbia ⁽⁷⁾ .	Exemption'

⁽¹⁾ One global volume per tariff quota accessible to imports originating in the beneficiary parties.

⁽²⁾ Access for wine originating in Albania to the global tariff quota is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Albania. That individual quota is opened under order No 09.1512 and 09.1513.

⁽³⁾ Access for wine originating in Bosnia and Herzegovina to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Bosnia and Herzegovina. Those individual quotas are opened under order Nos 09.1528 and 09.1529.

⁽⁴⁾ Access for wine originating in Kosovo to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Kosovo. Those individual quotas are opened under order Nos 09.1570 and 09.1572.

⁽⁵⁾ Access for wine originating in Montenegro to the global tariff quota, insofar as it concerns products of CN code 2204 21, is subject to the prior exhaustion of the individual tariff quota provided for in the Protocol on wine concluded with Montenegro. That individual tariff quota is opened under order No 09.1514.

⁽⁶⁾ Access for wine originating in North Macedonia to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Additional Protocol on wine concluded with North Macedonia. Those individual quotas are opened under order Nos 09.1558 and 09.1559.

⁽⁷⁾ Access for wine originating in Serbia to the global tariff quota is subject to the prior exhaustion of both individual tariff quotas provided for in the Protocol on wine concluded with Serbia. Those individual quotas are opened under order Nos 09.1526 and 09.1527.