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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	27 June 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 394 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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)

Delegations will find attached document COM(2014) 394 final.

In accordance with the method approved on 10 June 2003, delegations are invited to send their comments on the codification proposal by 15 September 2014 to the following addresses:

SECRETARIAT.Codification@consilium.europa.eu **AND** sj-codification@ec.europa.eu

Encl.: COM(2014) 394 final



Brussels, 27.6.2014
COM(2014) 394 final

2014/0199 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Regulation (EC) No 153/2002 of 21 January 2002 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, and for applying the Interim Agreement between the European Community and the Former Yugoslav Republic of Macedonia³. The new Regulation will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Entered in the legislative programme for 2014.

⁴ See Annex I to this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in 22 official languages, of Regulation (EC) No 153/2002 and the instruments amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex II to the codified Regulation.

↓ 153/2002 (adapted)

2014/0199 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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,

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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- (1) Council Regulation (EC) No 153/2002⁶ has been substantially amended several times⁷. In the interests of clarity and rationality, that Regulation should be codified.

↓ 153/2002 recital 1 (adapted)

- (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,

⁵ OJ C [...], [...], p. [...].

⁶ Council Regulation (EC) No 153/2002 of 21 January 2002 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, and for applying the Interim Agreement between the European Community and the Former Yugoslav Republic of Macedonia (OJ L 25, 29.1.2002, p. 16).

⁷ See Annex I.

of the other part ~~☒~~ ('SAA'), ~~☒~~ was signed in Luxembourg on 9 April 2001 ~~☒~~ and entered into force on 1 April 2004 ~~☒~~ .

↓ 153/2002 recital 3 (adapted)

- (3) It is necessary to lay down the procedures for the application of certain provisions of ~~☒~~ the SAA ~~☒~~ .
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↓ 153/2002 recital 4 (adapted)

- (4) The ~~☒~~ SAA stipulates ~~☒~~ that certain products originating in the former Yugoslav Republic of Macedonia may be imported into the ~~☒~~ Union ~~☒~~ , within the limits of tariff quotas, at a reduced customs duty. It is therefore necessary to lay down provisions for the calculation of the reduced rates of customs duties.
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↓ 153/2002 recital 5 (adapted)

- (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.
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↓ 153/2002 recital 7 (adapted)

- (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 European Parliament and of the Council⁸, to adopt the Regulations opening up and providing for the administration of the tariff quotas for 'baby beef' products.
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↓ 153/2002 recital 8 (adapted)

- (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 Council⁹, 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 ~~☒~~ .
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⁸ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

⁹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

↓ 153/2002 recital 9

- (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.
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↓ 37/2014 Art. 1 and Annex .8
(adapted)

- (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 Council¹⁰.
- (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 Article 37(4)(b) and Article 38(4) of the SAA , imperative grounds of urgency so require,
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↓ 153/2002 (adapted)

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’).

↓ 37/2014 Art. 1 and Annex .8(1)
(adapted)

Article 2

Concessions on ‘baby beef’

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Detailed rules for the implementation of Article 27(2) of the ~~EU~~ SAA ~~EU~~, 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.

↓ 37/2014 Art. 1 and Annex .8(3)
(adapted)

Article 3

Further concessions

If additional concessions for fishery products are granted within tariff quotas, pursuant to Article 29 of the ~~EU~~ SAA ~~EU~~, 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.

↓ 153/2002 (adapted)

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 ~~EU~~ pursuant to ~~EU~~ 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.
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↓ 37/2014 Art. 1 and Annex .8(5)

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).

↓ 3/2003 Art. 1 (adapted)

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.

↓ 3/2003 Art. 1 (adapted)
→₁ 37/2014 Art. 1 and Annex .8(6)

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 five working days of the date of receipt of that request;
- (b) consult the Committee referred to in Article 12(3) 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. →₁ On the completion of the consultations referred to in paragraph 2(c) , 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.

That Decision shall be applicable immediately.

↓ 37/2014 Art. 1 and Annex .8(6)
(adapted)

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

↓ 37/2014 Art. 1 and Annex .8(7)
(adapted)

Article 7

Exceptional and critical circumstances

Where exceptional and critical circumstances arise within the meaning of Article 37(4)(b) and Article 38(4) of the SAA , the Commission may take immediate measures as provided for in Articles 38 and 39 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 five working days of receipt of the request.

↓ 3/2003 Art. 1 (adapted)

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 Articles 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 according to 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 case 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 1225/2009¹¹ and the procedure provided for in Article 36(2) of the SAA .

¹¹ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

Article 10

Competition

↓ 37/2014 Art. 1 and Annex .8(8)
(adapted)

1. In the case 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 597/2009¹² 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 .

↓ 3/2003 Art. 1 (adapted)

2. In the case 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 the 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;

¹² Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.7.2009, p. 93).

- (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 .

<p>↓ 37/2014 Art. 1 and Annex .8(9) (adapted)</p>

3. Pending a mutually satisfactory solution having been reached in the consultations referred to in point (b) of the first subparagraph of paragraph 2, the Commission may decide on other appropriate measures it deems necessary in accordance with Article 42 of the SAA , as well as with the examination procedure referred to in Article 12(4) of this Regulation.

↓ 37/2014 Art. 1 and Annex .8(10) (adapted)

Article 12

Committee procedure

1. For the purpose of Article 2, the Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. For the purpose of Article 4, 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.
3. For the purpose of Articles 6, 7, 10 and 11, the Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009¹³. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
5. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

↓ 3/2003 Art. 1 (adapted)

Article 13

Notification

Notification to the Stabilisation and Association Council and the Stabilisation and Association Committee, respectively, as required by the SAA shall be the responsibility of the Commission, acting on behalf of the Union .

¹³ Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports (OJ L 84, 31.3.2009, p. 1).



Article 14

Repeal

Regulation (EC) No 153/2002 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

↓ 153/2002 (adapted)

Article 15

Entry into force

This Regulation shall enter into force on the ☒ twentieth ☒ 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,

*For the European Parliament
The President*

*For the Council
The President*