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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the reduction or elimination of customs duties on goods originating in Ukraine**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

On 21 November 2013, Ukraine announced the suspension of the preparations for the signature of the Association Agreement, including a Deep and Comprehensive Free Trade Area (DCFTA) with the EU.

Following the recent unprecedented events in the country and the security, political and economic challenges faced by Ukraine, on 6 March 2014, the European Council stated its intention to support the economic stabilization of the country by means of a package of measures, including the granting of autonomous trade preferences.

This measure will allow for the Union's unilateral reduction or elimination of customs duties on goods originating in Ukraine, in accordance with the Schedule of concessions set out in Annex I-A to the Association Agreement between the EU and Ukraine.

### **2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENT**

Not applicable.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

The legal basis for the proposal is Article 207(2) of the Treaty on the Functioning of the European Union.

### **4. BUDGETARY IMPLICATION**

The European Union will see a loss of customs revenue corresponding to EUR 487 million (gross) annually. However, those figures are estimates, having regard to the economic situation of Ukraine and can change.

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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,

Whereas:

- (1) Ukraine is a priority partner country within the European Neighbourhood Policy (ENP) and the Eastern Partnership. The European Union has been seeking an increasingly close relationship with Ukraine going beyond mere bilateral cooperation, encompassing gradual progress towards political association and economic integration. In this respect, the European Union and Ukraine negotiated in 2007-2011 an Association Agreement, including a Deep and Comprehensive Free Trade Area (DCFTA), which was initialed by both parties in 2012. Under the provisions of the DCFTA, the European Union and Ukraine are to establish a free trade area over a transitional period of a maximum of 10 years starting from the entry into force of the Association Agreement, in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994.
- (2) In light of the unprecedented security, political and economic challenges faced by Ukraine, and in order to support its economy, it is appropriate not to await the entry into force of the Association Agreement's provisions on a Deep and Comprehensive Free Trade Area (DCFTA), but to anticipate its implementation by means of autonomous trade preferences and to start unilaterally the reduction or elimination of Union customs duties on goods originating in Ukraine, in accordance with the Schedule of concessions set out in Annex I-A to the Association Agreement.
- (3) In order to prevent any risk of fraud, the entitlement to benefit from autonomous trade preferences should be conditional on the compliance by Ukraine with the relevant rules of origin of products and the procedures related thereto as well as involvement in effective administrative cooperation with the Union. Moreover, Ukraine should abstain from introducing new duties or charges having equivalent effect or new quantitative restrictions or measures having equivalent effect or from increasing existing levels of duties or charges or from introducing any other restrictions. In the event of failure to comply with any of these conditions the Commission should be empowered to suspend temporarily all or part of the preferences.
- (4) It is necessary to provide for the reintroduction of normal Common Customs Tariff duties for any products which cause, or threaten to cause, serious difficulties to Union

producers of like or directly competing products, subject to an investigation by the Commission.

- (5) The measures necessary for the implementation of this Regulation should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.<sup>1</sup>
- (6) In view of the urgency of the matter, it is important to apply an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Preferential arrangements**

Customs duties on goods originating in Ukraine shall be reduced or eliminated in accordance with Annex I to this Regulation.

#### *Article 2*

##### **Conditions for entitlement to the preferential arrangements**

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

- (a) compliance with the rules of origin of products and the procedures related thereto as provided for in Title IV, Chapter 2, section 2 of Regulation (EEC) No 2454/93<sup>2</sup>;
- (b) compliance with the methods of administrative cooperation as provided for in Articles 121 and 122 of Regulation (EEC) No 2454/93;
- (c) participation by Ukraine in effective administrative cooperation with the Union in order to prevent any risk of fraud;
- (d) abstention by Ukraine from introducing new duties or charges having equivalent effect and new quantitative restrictions or measures having equivalent effect for imports originating in the Union or from increasing existing levels of duties or charges or from introducing any other restrictions from the day of the entry into force of this Regulation.

#### *Article 3*

##### **Access to tariff quotas**

1. Products listed in Annexes II and III shall be admitted for import into the Union within the limits of Union tariff quotas as set out in those Annexes.
2. The tariff quotas referred to in paragraph 1 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93,

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<sup>1</sup> 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).

<sup>2</sup> Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

with the exception of the tariff quotas for specific agricultural products referred to in Annex III.

3. Tariff quotas for specific agricultural products referred to in Annex III shall be administered by the Commission pursuant to the rules laid down in accordance with Article 184 of Regulation (EU) No 1308/2013<sup>3</sup>.

#### *Article 4*

##### **Temporary suspension**

Where the Commission finds that there is sufficient evidence of failure to comply with the conditions set out in Article 2 it may suspend in whole or in part the preferential arrangements provided for in this Regulation, in accordance with the examination procedure referred to in Article 6(2).

#### *Article 5*

##### **Safeguard clause**

Where imports of a product originating in Ukraine and included in Annex I cause or threaten to cause serious difficulties to Union producers of like or directly competing products the Commission may reintroduce the normal Common Customs Tariff duties with regard to such imports subject to the conditions and in accordance with the procedures laid down in Articles 11 and 11a of Council Regulation (EC) No 55/2008<sup>4</sup> which shall apply *mutatis mutandis*.

#### *Article 6*

##### **Committee procedure**

1. For the implementation of Article 3(2) and Article 4 of this Regulation, the Commission shall be assisted by the Customs Code Committee instituted by Article 248a of Regulation (EEC) No 2913/92. The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### *Article 7*

##### **Entry into force and application**

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

It shall apply until the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, enters into force or, where appropriate, is applied provisionally.

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<sup>3</sup> 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*)

<sup>4</sup> Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for the Republic of Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC (*OJ L 20, 24.1.2008, p. 1*).

It shall cease to apply on **1 November 2014**. The Commission shall publish in the *Official Journal of the European Union* a notice in the event that this Regulation ceases to apply before **1 November 2014**.

Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*