EU/Euratom/Moldova Association Agreement: implementing the safeguard clause and anti-circumvention mechanism

2015/0079(COD) - 14/04/2015 - Legislative proposal

PURPOSE: to incorporate the anti-circumvention mechanism foreseen in the EU-Moldova Association Agreement into European Union law.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the EU-Moldova Association Agreement was signed on 24 June 2014 and has been provisionally applied from 1 September 2014. This Agreement includes:

- a **bilateral safeguard clause which allows for the temporary suspension of** preferences in case their application would result in an unexpected and significant increase of imports causing economic damage to the domestic industry of the importing party. In concrete terms, this instrument makes it possible to either suspend the further tariff liberalization or reintroduce the most favoured nation (MFN) customs duty rate;
- a so-called **anti-circumvention mechanism**, which provides for the possibility to reintroduce the MFN customs duty rate when imports of certain agricultural goods from Moldova exceed a given threshold without due justification of their exact origin.

The Commission considered it necessary to lay down the procedures to guarantee the effective application of the safeguard clause and the anti-circumvention mechanism.

An implementing regulation of the European Parliament and of the Council is necessary to put in place in the EU's internal legislation the necessary instrument to be able to apply the bilateral safeguard clause and the anti-circumvention mechanism.

CONTENT: the proposal for a Regulation constitutes **the legal instrument for the implementation of the safeguard clause and the anti-circumvention mechanism** of the Agreement already concluded with the Republic of Moldova.

Safeguard measures: safeguard measures may be considered only if the product in question is imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under such conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competing products. The maximum duration of safeguard measures is determined and specific provisions regarding extension and review of such measures are laid down.

Initiating an investigation: the tasks of following up and reviewing the Agreement, carrying out investigations and, if necessary, imposing safeguard measures should be carried out in the most transparent manner possible. The Commission should receive information including available evidence from the Member States of any trends in imports which might call for the application of safeguard measures. If there is sufficient prima facie evidence to justify the initiation of proceedings, the Commission should publish a notice in the Official Journal of the European Union.

Investigations: the proposal provides that there should be detailed provisions on the initiation of investigations, access to and inspections by interested parties of the information gathered, hearings for the interested parties involved and the opportunities for those parties to submit their views. It also sets time limits for the initiation of an investigation and for determinations as to whether or not safeguard measures are appropriate, with a view to ensuring that such determinations are made quickly, in order to increase legal certainty for the economic operators concerned. An investigation should precede the application of any safeguard measure.

Anti-circumvention mechanism: the proposed Regulation provides for the possibility to suspend the preferential customs duties for a maximum period of six months when the imports of certain agricultural products and processed agricultural products reach the annual import volumes defined in the Association Agreement.

Implementation: in order to ensure uniform conditions for the adoption of provisional and definitive safeguard measures, for the imposition of prior surveillance measures and for the termination of an investigation without measures provided for in the Agreement, implementing powers should be conferred on the Commission.

The Commission should adopt immediately applicable implementing acts where, in duly justified cases a delay in the imposition of provisional safeguard measures would cause damage which would be difficult to repair or in order to prevent a negative impact on the Union market as a result of an increase in imports.