

Basic information	
<p>2011/0262(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation</p>	Procedure completed
<p>EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas</p> <p>See also 2011/0249(NLE) Amended by 2015/0112(COD)</p> <p>Subject</p> <p>3.10.06.01 Fruit, citrus fruits 6.20.02 Export/import control, trade defence, trade barriers 6.20.03 Bilateral economic and trade agreements and relations 6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin</p> <p>Geographical area</p> <p>Colombia Peru</p>	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	INTA	International Trade	LANGE Bernd (S&D)	11/10/2011
			Shadow rapporteur ZALBA BIDEGAIN Pablo (PPE) BEARDER Catherine (ALDE) BOVÉ José (Verts/ALE) ZAHRADIL Jan (ECR) SCHOLZ Helmut (GUE/NGL)	
	Committee for opinion		Rapporteur for opinion	Appointed
	AGRI	Agriculture and Rural Development	MATO Gabriel (PPE)	23/11/2011
	Committee for opinion on the legal basis		Rapporteur for opinion	Appointed
JURI	Legal Affairs	VOSS Axel (PPE)	16/05/2012	

Council of the European Union	Council configuration	Meetings	Date
	Transport, Telecommunications and Energy	3213	2012-12-20
European Commission	Commission DG	Commissioner	
	Trade and Economic Security	DE GUCHT Karel	

Key events			
Date	Event	Reference	Summary
03/10/2011	Legislative proposal published	COM(2011)0600 	Summary
12/10/2011	Committee referral announced in Parliament, 1st reading		
12/07/2012	Vote in committee, 1st reading		
19/07/2012	Committee report tabled for plenary, 1st reading	A7-0249/2012	Summary
12/09/2012	Debate in Parliament		
13/09/2012	Decision by Parliament, 1st reading	T7-0347/2012	Summary
13/09/2012	Results of vote in Parliament		
11/12/2012	Decision by Parliament, 1st reading	T7-0480/2012	Summary
20/12/2012	Act adopted by Council after Parliament's 1st reading		
15/01/2013	Final act signed		
16/01/2013	End of procedure in Parliament		
19/01/2013	Final act published in Official Journal		

Technical information	
Procedure reference	2011/0262(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	See also 2011/0249(NLE) Amended by 2015/0112(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 207-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	INTA/7/07320

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE483.655	13/03/2012	
Committee opinion	AGRI	PE480.865	21/03/2012	
Amendments tabled in committee		PE487.743	17/04/2012	
Specific opinion	JURI	PE490.978	01/06/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0249/2012	19/07/2012	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0347/2012	13/09/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0480/2012	11/12/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00062/2012/LEX	15/01/2013	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0600 	03/10/2011	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

[Regulation 2013/0019](#)
[OJ L 017 19.01.2013, p. 0001](#)

[Summary](#)

EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas

2011/0262(COD) - 19/07/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on International Trade adopted the report by Bernd LANGE (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and Colombia and Peru.

The committee recommends that the European Parliament's position in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Monitoring: Members specify that the Commission shall monitor the evolution of import and export statistics of Colombian and Peruvian products, in particular in sensitive sectors including bananas, and it may consider extending the scope of the monitoring to other sectors. The Commission shall present **an annual monitoring report** on updated statistics on imports from Colombia and Peru of products in the sensitive sectors and those sectors to which monitoring has been extended, including bananas, and will do its utmost to include the **employment rates and working conditions for banana producers in Colombia and Peru to avoid all forms of dumping**.

Dialogue with civil society: the Commission shall establish a systematic dialogue with civil society organisations as regards the implementation and impact of the Agreement.

The Commission's investigation: any investigation must also look into **working conditions and effects on employment in Union industry**. It must also **evaluate the observance by Colombia and Peru of the social and environmental standards** laid down in the Agreement and any consequences on prices or unfair competitive advantages potentially leading to serious injury or the threat of serious injury to producers or specific sectors of the economy in the Union.

European Parliament recommendation: in the event that the European Parliament adopts a recommendation to **initiate a safeguard investigation**, the Commission will carefully examine whether the conditions under the Regulation for ex-officio initiation are fulfilled.

Prior surveillance measures: in the event that there is an increase of imports concentrated in one or several of the Union's outermost regions, the Commission may introduce prior surveillance measures.

Report: the Commission shall present an **annual report** on the application and implementation of the Agreement and of the Regulation to the European Parliament. The report shall include:

- information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures, the termination of investigations without measures, and the activities of the various bodies responsible for monitoring the implementation of the Agreement;
- up-to- date statistics on banana imports from Colombia and Peru and their direct and indirect impact on the development of employment and working conditions in the Union production sector;
- the fulfilment of obligations under Title IX of the Agreement, and action taken in that respect by Colombia and Peru;
- a summary of the statistics and the evolution of trade with Colombia and Peru.

Ad hoc meeting with Parliament: the European Parliament may, within one month from the Commission presenting the report, invite the Commission to an ad hoc meeting of its responsible committee to explain any issues related to the implementation of the Regulation.

Lastly, the committee stated that the application of the stabilisation mechanism for bananas shall under no circumstances prevent the activation of measures included in the bilateral safeguard clause.

EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas

2011/0262(COD) - 13/09/2012 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted **amendments** to the proposal for a Regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and Colombia and Peru.

The matter was referred back to the committee responsible and the vote was postponed until a subsequent plenary session.

The main amendments adopted by Parliament are as follows:

Monitoring: Parliament feels that close monitoring of banana imports will facilitate any timely decision concerning activation of the stabilisation mechanism for bananas, the launch of an investigation or the imposition of safeguard measures. The Commission should, therefore, step up regular monitoring of imports in the banana sector from the date of application of the Agreement.

Members specify that the Commission shall monitor the evolution of import and export statistics of Colombian and Peruvian products, in particular in sensitive sectors including bananas, and it may consider extending the scope of the monitoring to other sectors.

The Commission shall present **an annual monitoring report** on updated statistics on imports from Colombia and Peru of products in the sensitive sectors and those sectors to which monitoring has been extended, including bananas, and will do its utmost to include **the employment rates and working conditions for banana producers in Colombia and Peru to avoid all forms of dumping**. Parliament added that the Commission shall closely

monitor the evolution of statistics for banana imports from Colombia and Peru. For this purpose, it shall cooperate and exchange information on a regular basis with the Member States and interested parties. Upon a duly reasoned request from a Member State, the Union industry, the European Parliament or any interested party, the Commission shall pay particular attention to any noticeable increase in banana imports from Colombia and Peru and, if appropriate, shall introduce prior surveillance measures.

The Commission's investigation: any investigation must also look into **working conditions and effects on employment** in Union industry. It **must also evaluate the observance by Colombia and Peru of the social and environmental standards** laid down in the Agreement and any consequences on prices or unfair competitive advantages potentially leading to serious injury or the threat of serious injury to producers or specific sectors of the economy in the Union.

European Parliament recommendation: in the event that the European Parliament adopts a recommendation to **initiate a safeguard investigation**, the Commission will carefully examine whether the conditions under the Regulation for ex-officio initiation are fulfilled.

Dialogue with civil society: the Commission shall establish a systematic dialogue with civil society organisations as regards the implementation and impact of the Agreement.

Prior surveillance measures: in the event that there is an increase of imports concentrated in one or several of the Union's outermost regions, the Commission may introduce prior surveillance measures.

Implementing rules: the applicable provision for the purposes of adopting the necessary implementing rules for the application of the rules contained in Appendix 2A of the Annex II to the Trade Agreement between the EU and its Member States, of the one part, and Colombia and Peru, of the other part "Concerning the Concept of 'Originating Products' and Methods of Administrative Co-operation" and Appendix 2 of Annex I "Elimination of customs duties" of the Agreement is Article 247a of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

Report: the Commission shall present an **annual report** on the application and implementation of the Agreement and of the Regulation to the European Parliament. The report shall include:

- information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures, the termination of investigations without measures, and the activities of the various bodies responsible for monitoring the implementation of the Agreement;
- up-to- date statistics on banana imports from Colombia and Peru and their direct and indirect impact on the development of employment and working conditions in the Union production sector;
- the fulfilment of obligations under Title IX of the Agreement, and action taken in that respect by Colombia and Peru;
- a summary of the statistics and the evolution of trade with Colombia and Peru.

Ad hoc meeting with Parliament: the European Parliament may, within one month from the Commission presenting the report, invite the Commission to an *ad hoc* meeting of its responsible committee to explain any issues related to the implementation of the Regulation.

Respect for ILO standards: Parliament stresses the importance of complying with the international labour standards drawn up and supervised by the International Labour Organisation because defending decent work for all should be an absolute priority and bananas imported from Colombia or Peru should be produced under decent social and environmental conditions and for a fair wage to ensure that Union producers are not the victims of dumping.

Stabilisation mechanism for bananas: Parliament stated that the application of the stabilisation mechanism for bananas shall under no circumstances prevent the activation of measures included in the bilateral safeguard clause.

Procedure applicable when stabilisation mechanism is triggered: once the trigger volume for either Colombia or Peru is met during the corresponding calendar year, the Commission shall, in accordance with the examination procedure referred to in the proposal, temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year. The text states that only reasons of *force majeure* shall prevent the suspension from being imposed.

EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas

2011/0262(COD) - 03/10/2011 - Legislative proposal

PURPOSE : incorporation in the European Union law of the safeguard clause and the Stabilisation Mechanism foreseen in the Trade Agreement with Colombia and Peru.

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

BACKGROUND : on 19 January 2009 the Council authorised the Commission to open negotiations with the Member Countries of the Andean Community, which resulted in a Trade Agreement with Colombia and Peru. The Agreement was initialled on 23 March 2011.

The Agreement includes a bilateral safeguard clause that provides for the possibility to re-instate the MFN customs duty rate when, as a result of a trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the Union Industry producing the like or directly competitive product.

Furthermore, the Agreement also incorporates a Stabilisation Mechanism for Bananas according to which, until 1 January 2020, preferential customs duties can be suspended when a certain annual import volume is reached.

In order for these measures to be operational, the safeguard clause and the Stabilisation Mechanism should be incorporated in EU law, and the procedural aspects of their application as well as the rights of interested parties need to be specified.

This is the purpose of the proposal.

IMPACT ASSESSMENT : no impact assessment was undertaken.

LEGAL BASIS : Article 207(2) of the Treaty on the Functioning of the EU.

CONTENT : the proposal for a Regulation of the European Parliament and of the Council constitutes the legal instrument for the implementation of the safeguard clause and the Stabilisation Mechanism of the EU- Colombia and Peru Free Trade Agreement.

1) Principles on the imposition of safeguard measures: a safeguard measure may be imposed in accordance with this Regulation where a product originating in Colombia or Peru is, as a result of tariff concessions on that product under the Agreement, being 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 the Union industry** producing a like or directly competitive product.

Safeguard measures may take one of the following forms:

- a suspension of further reduction of the rate of customs duty on the product concerned provided for in the Tariff Elimination Schedule of the European Union set out in Annex I to the Agreement;
- an increase in the rate of customs duty on the product concerned to a level which does not exceed the lesser of: (i) the most-favoured-nation ("MFN") applied rate of customs duty on the product in effect at the time the measure is taken; or (ii) the base rate as specified in the Tariff Elimination Schedule of the European Union set out in Annex I to the Agreement.

Initiation of proceedings: an investigation shall be initiated upon request by a Member State, by any legal person or any association not having legal personality, acting on behalf of the Union industry, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient prima facie evidence, as determined on the basis of factors referred to above, to justify such initiation. The request to initiate an investigation shall generally contain the following information: the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment.

An investigation may also be initiated in the event that there is a surge of imports concentrated in one or several Member States, provided that there is sufficient prima facie evidence that the conditions for initiation are met.

The proposal makes provision for the procedures for initiating an investigation and the conditions under which the latter may be done.

Investigation: following the initiation of the proceeding, the Commission shall commence an investigation, which shall, whenever possible, be concluded **within six months of its initiation**. That time limit may be extended by a further period of three months in exceptional circumstances such as the involvement of an unusually high number of parties, or complex market situations.

Prior surveillance measures: where the trend in imports of a product originating in Colombia or Peru is such that it could lead to a serious threat to the Union market, imports of that product may be subject to prior surveillance measures. Such measures shall be adopted by the Commission in accordance with the advisory procedure referred to in the text. Prior surveillance measures shall have a limited period of validity.

Imposition of provisional safeguard measures: provisional safeguard measures shall be applied in critical circumstances where a delay would cause damage which would be difficult to repair, pursuant to a

preliminary determination that there is sufficient prima facie evidence that imports of a product originating in Colombia or Peru have increased as the result of the reduction or elimination of a customs duty. Provisional measures shall be adopted by the Commission in accordance with the advisory procedure, including on imperative grounds of urgency. Provisional measures shall not apply for more than **200 days**.

Imposition of definitive measures: where the facts as finally established show that conditions regarding a serious threat to Union industry are met the Commission shall invite the authorities of Colombia or Peru to hold consultations in accordance with the Agreement. Where no satisfactory solution has been reached within 45 days, the Commission may adopt a decision imposing definitive safeguard measures in accordance with the examination procedure.

The text also contains provisions on the termination of investigation and proceeding without measure.

Duration and review of safeguard measures: it is provided that a safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury and to facilitate adjustment. That period **shall not exceed two years**, and may exceptionally be extended by up to two years provided it is determined that the safeguard measure continues to be necessary to prevent or remedy serious injury and that there is evidence that the Union industry is adjusting.. The **total duration of a safeguard measure may not exceed four years**, including any provisional measure.

Confidentiality and transparency: the text contains provisions to ensure the confidentiality of information received pursuant to the Regulation. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

At the same time, when initiating an investigation, provisions are made to ensure transparency, and interested parties and representatives of Colombia and Peru may inspect all information made available to the Commission, which shall ensure that all data and statistics which are used for the investigation are available, comprehensible, transparent and verifiable. There are other provisions to ensure transparency, such as the Commission's obligation to ensure password-protected online access to the non-confidential file through which all information which is not confidential shall be disseminated. The European Parliament shall be granted access to this online platform.

2) **Stabilisation Mechanism for Bananas:** for bananas originating in Colombia and Peru (fresh Bananas, excluding plantains) and listed under category "BA" in the Schedule of the EU Party set out in Annex I to the

Agreement, a stabilisation mechanism shall apply **until 1 January 2020**.

A **separate annual trigger import volume** is set for imports of products as indicated in the Annex to the Regulation. Once the trigger volume for either Colombia or Peru is met during the corresponding calendar year, the Commission may, in accordance with the examination procedure, temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year.

In case the Commission decides to suspend the preferential customs duty applicable, the Commission shall apply the lesser of: (i) the base rate of customs duty or (ii) the MFN rate of duty that in application at the time such action is taken.

In case the Commission applies these actions, it shall immediately enter into consultations with the affected country (either Colombia or Peru or both) to analyse and evaluate the situation on the basis of factual available data.

These measures may be applicable only during the period ending on 31 December 2019.

BUDGETARY IMPLICATIONS : the proposal has no implications for the EU budget.

EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas

2011/0262(COD) - 11/12/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 569 votes to 47, with 61 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and Colombia and Peru.

To recap, during the 13 September 2012 plenary session, in accordance with Rule 57(2) of Parliament's Rules of Procedure, the report was referred back to the committee responsible. Parliament now agrees its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the proposal as follows:

Safeguarding the Community banana: appropriate safeguard measures are foreseen to avoid serious harm to the Union banana-growing sector which is of great importance to the agricultural producers of many of the outermost regions of the Union. The limited ability of those regions to diversify, owing to their natural characteristics, makes the banana sector particularly vulnerable. It is therefore essential to create effective mechanisms to address preferential imports from third countries concerned, in order **to guarantee that Union banana production is maintained under the best possible conditions**, especially in the outermost regions.

Statistical monitoring: it is foreseen that the Commission shall monitor the evolution of import statistics of bananas from Colombia and Peru. For that purpose, it shall cooperate and exchange data on a regular basis with Member States and the Union industry. Upon a duly justified request by the industries concerned, the Commission **may consider extending the scope of the monitoring to other sectors**. The Commission shall monitor the observance by Colombia and Peru of the social and environmental standards laid down in the Agreement.

Initiation of proceedings: a proceeding shall be initiated upon request by a Member State, by any legal person or any association not having legal personality acting on behalf of the Union industry, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient prima facie evidence to justify such initiation. A proceeding may also be initiated in the event that there is a surge of imports concentrated in **one or several Member States, or outermost regions**, provided that there is sufficient prima facie evidence that the conditions for initiation are met.

Safeguard measures: safeguard measures are provided for in the event that a product is imported at such high quantities and under conditions that cause or threaten to cause serious harm to the economic situation in particular in one of the outermost regions of the EU.

Provisional safeguard measures: the Commission may adopt provisional safeguard measures as regards products imported from Colombia or Peru, in particular in cases of a **surge of imports concentrated in one or several Member States or in one or several of the Union's outermost regions**. Provisional (or definitive) safeguard measures may in this case be introduced to protect the Union's market.

Commission report: it is foreseen that the Commission should submit a report to the European Parliament and the Council on the application, the implementation and the fulfilment of the obligations laid down in the Agreement and this Regulation in respect of social and environmental standards. The report shall include information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures and the termination of investigations and proceedings without measures. The report shall include information on the activities of

the various bodies responsible for monitoring the implementation of the Agreement, including on fulfilment of obligations under the Agreement and on activities with civil society advisory groups. The report shall set out a summary of the statistics and the evolution of trade with Colombia and Peru and shall include up-to-date statistics on banana imports from Colombia and Peru.

Transparency measures *vis-à-vis* the European Parliament: the European Parliament may, within one month of submission of the Commission's report, invite the Commission to an *ad hoc* meeting of its responsible committee to present and explain any issues related to the implementation of this Regulation.

Stabilisation mechanism for bananas: it is stipulated that a stabilisation mechanism shall apply **until 31 December 2019**. From 1 January 2020 the general bilateral safeguard mechanism including the special provisions for outermost regions remains applicable. This mechanism offers the possibility to suspend swiftly for a maximum period of three months the preferential customs duties when imports exceed a defined annual trigger import volume. The decision on suspension is taken by the Commission by means of the advisory procedure.

When deciding whether measures should be applied under the stability mechanism, the Commission shall take into consideration the impact of the imports concerned on the situation of the Union market for bananas. That examination shall include factors such as: effect of the imports concerned on the Union price level, development of imports from other sources, overall stability of the Union market. Specific and technical implementing measures are laid down with this in mind. The decision whether to apply the stabilisation mechanism shall take into account the stability of the Union's banana market. In any event, safeguard measures and the provisions applicable to the triggering of the banana stabilisation mechanism shall not, however, be applied simultaneously.

Joint declaration: in a declaration, the European Parliament and the Commission agree on the need for close cooperation on the monitoring of the implementation of the provisions of the Agreement in respect of the respect of environmental and social standards by the countries concerned. A mechanism is foreseen to alert Parliament in the event any specific concerns relating to the implementation by Colombia or Peru of their commitments on trade and sustainable development.

If the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions for ex-officio initiation are fulfilled. If the Commission considers that the conditions are not fulfilled, it will present a report to the responsible committee of the European Parliament including an explanation of all the factors relevant to the initiation of such an investigation.

In parallel, in a statement, the Commission indicates its satisfaction in regard to the agreement reached at first reading on this matter, and states that it attaches particular importance to the effective implementation of commitments on trade and sustainable development in the Agreement.

After the expiry of the stabilisation mechanism for bananas on 31 December 2019, the Commission will assess the situation of the Union market for bananas and the state of Union banana producers. The Commission will report its findings to the European Parliament and to the Council and will include a preliminary assessment of the functioning of the 'Programme d'Options Spécifiques à l'Éloignement et l'Insularité' (POSEI) in preserving the banana production in the Union.

EU/Colombia and Peru Trade Agreement: implementation of the bilateral safeguard clause and stabilisation mechanism for bananas

2011/0262(COD) - 15/01/2013 - Final act

PURPOSE: to incorporate in European Union law the safeguard clause and the Stabilisation Mechanism foreseen in the Trade Agreement with Colombia and Peru.

LEGISLATIVE ACT: Regulation (EU) No 19/2013 of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part.

BACKGROUND: a [Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part](#) was signed on 26 June 2012 and received the consent of the European Parliament on 11 December 2012.

The Agreement includes a **bilateral safeguard clause** that provides for the possibility of reinstating the most favoured nation (MFN) customs duty rate when, as a result of a trade liberalisation, imports take place in such increased quantities and under such conditions as to cause (or threaten to cause) serious injury to the Union industry producing a competitive product.

Furthermore, the Agreement also incorporates a **Stabilisation Mechanism for Bananas** according to which, until 1 January 2020, preferential customs duties can be suspended when a certain annual import volume is reached.

In order for these measures to be operational, the safeguard clause and the Stabilisation Mechanism needed to be incorporated in EU, and the procedural aspects of their application as well as the rights of interested parties needed to be specified.

That is the objective of this Regulation.

CONTENT: this Regulation incorporates in European Union law the safeguard clause and the Stabilisation Mechanism for the banana sector foreseen in the trade agreement between the EU, on the one hand, and Colombia and Peru, on the other.

1. Imposition of safeguard measures: a safeguard measure may be imposed where a product originating in Colombia or Peru is, as a result of the reduction or the elimination of the customs duties on that product, being 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 the Union industry**.

The Regulation stipulates the various forms that the envisaged safeguard measures may take, i.e. mainly modifications in the rates of customs duties applied to the product in question (suspension of a further reduction of the rate of customs duty or an increase in the rate of customs duty, depending on the situation).

Statistical monitoring: the Commission shall monitor the evolution of import statistics of bananas from Colombia and Peru. For that purpose, it shall cooperate and exchange data on a regular basis with Member States and the Union industry. Upon a duly justified request by the industries concerned, the Commission may consider extending the scope of the monitoring to other sectors. The European Parliament shall be kept regularly informed of the trend of these statistics.

The Commission shall monitor the observance by Colombia and Peru of the social and environmental standards laid down in the Agreement.

Initiation of proceedings: the Commission shall open a procedure upon request by a Member State, any legal person or any association acting on behalf of the Union industry, or on its own initiative, if it is apparent to the Commission that there is sufficient prima facie evidence to justify initiating proceedings and, in particular, serious disturbance in the Community market. A procedure may also be initiated in the event that there is a surge of imports concentrated **in one or several Member States, or outermost regions**. Details concerning the procedure are contained in the Regulation.

Investigations: following the initiation of the proceeding, the Commission shall commence an investigation. The investigation shall, where possible, be concluded within six months of its initiation. That time limit may be extended by a further period of three months in exceptional circumstances such as the involvement of an unusually high number of interested parties or complex market situations. In the investigation, the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Union industry.

Provision is made for a procedure to allow interested parties to make known their views in writing and submit information. If the investigation concludes that the market has experienced serious disturbance, safeguard measures may be launched.

Safeguard clause: specific safeguard provisions are provided for in case the product in question is imported in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of any of the EU's outermost regions.

The safeguard clause will be applied in 2 stages:

(a) Prior surveillance measures: the Commission may adopt prior surveillance measures in regard to imports from Colombia and Peru in particular where there is a **surge of imports of bananas concentrated in one or several Member States, or in one or several of the Union's outermost regions**. These measures would be of a limited duration;

(b) Provisional safeguard measures: in a second stage, provisional safeguard measures shall be applied in critical circumstances where a delay would cause damage which would be difficult to repair, pursuant to a preliminary determination that there is sufficient prima facie evidence that imports of a product have increased suddenly. The Commission shall adopt provisional safeguard measures in accordance with the advisory procedure referred to in the Regulation, including in cases of imperative grounds of urgency. Provisional safeguard measures shall not apply for more than **200 calendar days**.

Imposition of definitive measures: where the facts as finally established show that conditions regarding a serious threat to Union industry are met, the Commission shall enter into consultations with the Colombian or Peruvian authorities. If no satisfactory solution has been reached within 45 days, the Commission may adopt a decision imposing definitive safeguard measures.

Technical provisions are also laid down in regard to the termination of an investigation without measures.

Duration and review of safeguard measures: a safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury to Union industry and to facilitate adjustment. That period shall not exceed **two years**, unless it is extended under circumstances described in the Regulation (i.e. to prevent or remedy serious injury to Union industry). In any event, any extension must be preceded by an investigation and the **total duration of the safeguard measure cannot exceed four years**.

Transparency measures and confidentiality: provision is made to ensure the confidentiality of information received pursuant to the Regulation. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.

Commission report: the Regulation provides that the Commission shall submit an annual report to the European Parliament and to the Council on the application, implementation and fulfilment of obligations of the Agreement regarding social and environmental issues and of this Regulation. The report shall include information about the application of provisional and definitive measures, prior surveillance measures, regional surveillance and safeguard measures and the termination of investigations and proceedings without measures. It shall include information on the activities of the various bodies responsible for monitoring the implementation of the Agreement and on activities with civil society advisory groups.

The report shall set out a summary of the statistics and the evolution of trade with Colombia and Peru and shall include up-to-date statistics on banana imports from these two countries.

2. Stabilisation mechanism for bananas: the Commission shall make use of the stabilisation mechanism for bananas in order to avoid a threat of serious deterioration or a serious deterioration for producers in the outermost regions in the Union. This mechanism applies to bananas originating in Colombia and Peru (fresh bananas, excluding plantains) and which are listed under category 'BA' in the EU's Tariff Elimination Schedule, in the Annex of the Agreement. It shall apply **until 31 December 2019**.

A separate **annual trigger import volume** is set for imports of these products, as indicated in the table in the Annex to the Regulation. Once the trigger volume for a Central American country is met during the corresponding calendar year, the **Commission shall adopt an implementing act**, in accordance with the advisory procedure, by which it may either temporarily suspend the preferential customs duty applied to products of the corresponding origin during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year. The decision as to whether the stabilisation measures for bananas should be applied shall take into consideration the stability of the Union market for bananas.

Where the Commission applies these measures, it shall immediately enter into consultations with Colombia or Peru (or the two) to analyse and evaluate the situation on the basis of available factual data.

It should be noted that from 1 January 2020, the general bilateral safeguard mechanism, including the special provisions for outermost regions, remains applicable.

N.B. the Regulation includes a joint declaration of Parliament and the Council on the need for close cooperation in monitoring the implementation of the Agreement and this Regulation.

ENTRY INTO FORCE: the Regulation enters into force on 22 January 2013. It shall apply from the date of application of the EU-Peru-Colombia Agreement, as provided for in Article 330 thereof. A notice shall be published in the Official Journal of the European Union specifying the date of application of the Agreement.