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2014/0158 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the safeguard measures provided for in the Agreement between the European
Economic Community and the Swiss Confederation (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 Regulation (EEC) No 2841/72 of the Council of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation³. 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.
5. The codification proposal was drawn up on the basis of a preliminary consolidation, in 22 official languages, of Regulation (EEC) No 2841/72 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.

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.

↓ 2841/72 (adapted)

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on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation (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) Regulation (EEC) No 2841/72 of the Council⁶ has been substantially amended several times⁷. In the interests of clarity and rationality, that Regulation should be codified.

↓ 2841/72 recital 1 (adapted)

- (2) An agreement between the European Economic Community and the Swiss Confederation ('the Agreement') was signed in Brussels on 22 July 1972.

↓ 2841/72 recital 3 (adapted)

- (3) Detailed rules are necessary for implementing the safeguard clauses and precautionary measures provided for in Articles 22 to 27 of the Agreement.

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

- (4) The implementation of the bilateral safeguard clauses of the Agreement requires uniform conditions for the adoption of safeguard measures. Those measures should be

⁵ OJ C [...], [...], p. [...].

⁶ Regulation (EEC) No 2841/72 of the Council of 19 December 1972 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation (OJ L 300, 31.12.1972, p. 284).

⁷ See Annex I.

adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸.

- (5) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to situations referred to in Articles 24, 24a and 26 of the Agreement or in the case of export aids that have a direct and immediate effect on trade, imperative grounds of urgency so require,

↓ 2841/72

HAVE ADOPTED THIS REGULATION:

↓ 37/2014 Art. 1 and Annex .1(1)

Article 1

The Commission may decide to refer to the Joint Committee established by the Agreement between the European Economic Community and the Swiss Confederation, hereinafter referred to as ‘the Agreement’, for the purpose of taking the measures provided for in Articles 22, 24, 24a and 26 of the Agreement. Where necessary, the Commission shall adopt those measures in accordance with the examination procedure referred to in Article 6(2) of this Regulation.

The Commission shall inform the Member States should it decide to refer an issue to the Joint Committee.

↓ 2841/72 (adapted)
→₁ 37/2014 Art. 1 and
Annex .1(2)

Article 2

1. In the case of a practice that may justify application by the ☒ Union ☒ of the measures provided for in Article 23 of the Agreement, 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 Agreement. →₁ Where necessary, the Commission shall adopt safeguard measures in accordance with the examination procedure referred to in Article 6(2) of this Regulation. ←

2. In the case of a practice that may cause safeguard measures to be applied to the ☒ Union ☒ on the basis of Article 23 of the Agreement, the Commission, after examining the case, shall decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, it shall formulate appropriate recommendations.

Article 3

In the case of a practice that may justify application by the ☒ Union ☒ of the measures provided for in Article 25 of the Agreement, the procedures established by Council

⁸ 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).

Regulation (EC) No 597/2009⁹ and Council Regulation (EC) No 1225/2009¹⁰ shall be applicable.

↓ 37/2014 Art. 1 and Annex .1(3)

Article 4

1. Where exceptional circumstances require immediate action in the situations referred to in Articles 24, 24a and 26 of the Agreement or in the case of export aids that have a direct and immediate effect on trade, the precautionary measures provided for in Article 27(3)(e) of the Agreement may be adopted by the Commission in accordance with the examination procedure referred to in Article 6(2) of this Regulation, or in cases of urgency, in accordance with Article 6(3) of this Regulation.

2. Where the Commission is requested to take action by a Member State, it shall take a decision on that request within a maximum period of five working days of its receipt.

↓ 2841/72 (adapted)

Article 5

Notification to the Joint Committee by the Union as required by Article 27(2) of the Agreement shall be the responsibility of the Commission.

↓ 37/2014 Art. 1 and Annex .1(5)

Article 6

1. The Commission shall be assisted by the Committee on Safeguards established by Article 4(1) of Council Regulation (EC) No 260/2009¹¹. That 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.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

Article 7

The Commission shall include information on the implementation of this Regulation in its annual report on the application and implementation of trade defence measures presented to the European Parliament and to the Council pursuant to Article 22a of Regulation (EC) No 1225/2009.

⁹ 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).

¹⁰ 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).

¹¹ 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 8

Regulation (EEC) No 2841/72 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.

Article 9

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