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►B REGULATION (EU) 2017/1566 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 September 2017

on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement

(OJ L 254, 30.9.2017, p. 1)

Corrected by:

►C1 Corrigendum, OJ L 335, 15.12.2017, p. 11 (2017/1566)

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REGULATION (EU) 2017/1566 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 September 2017

on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement

Article 1

Preferential arrangements

1. In addition to the zero-tariff quotas established by the Association Agreement, the agricultural products listed in Annexes I and II to this Regulation shall be admitted for import into the Union from Ukraine within the limits of Union zero-tariff quotas as set out in those Annexes. Those zero-tariff quotas shall be administered as follows:

(a) the zero-tariff quotas for the agricultural products listed in Annex I to this Regulation shall be administered by the Commission in accordance with Articles 49 to 54 of Implementing Regulation (EU) 2015/2447;

(b) the zero-tariff quotas for the agricultural products listed in Annex II to this Regulation shall be administered by the Commission pursuant to Article 184 of Regulation (EU) No 1308/2013 and the implementing and delegated acts adopted pursuant to that Article.

2. The preferential customs duties on importation into the Union of certain industrial products originating from Ukraine shall apply in accordance with Annex III.

Article 2

Conditions for entitlement to the preferential arrangements

Ukraine's entitlement to the zero-tariff quotas and preferential customs duties on importation introduced by Article 1 shall be subject to:

(a) Ukraine's compliance with the rules of origin of products and the procedures related thereto as provided for in the Association Agreement, in particular in Protocol I thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation, and in Protocol II thereto on mutual administrative assistance in customs matters; the zero-tariff quotas and preferential customs duties on importation introduced by Article 1 of this Regulation shall apply to goods originating in or that have been shipped from a territory not under the effective control of the Government of Ukraine, if those goods have been made available to the Ukrainian authorities for examination, and if their compliance with the conditions conferring entitlement to the preferential arrangements has been verified in accordance with the Association Agreement;

(b) from 1 October 2017, the 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, including discriminatory internal administrative measures;

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(c) Ukraine's respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law as well as continued and sustained efforts with regard to the fight against corruption and illegal activities provided for in Articles 2, 3 and 22 of the Association Agreement; and

(d) Ukraine's continued compliance with obligations to cooperate on matters related to employment, social policy and equal opportunities in accordance with Chapter 13 of Title IV (Trade and sustainable development) and Chapter 21 of Title V (Cooperation on employment, social policy and equal opportunities) of the Association Agreement, and the goals set out in Article 420 thereof.

Article 3

Temporary suspension

1. Where the Commission finds that there is sufficient evidence of failure by Ukraine 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 5(2).

2. Where a Member State requests that the Commission suspend any of the preferential arrangements provided for in this Regulation on the basis of a failure to comply with the conditions set out in point (b) of Article 2, the Commission shall provide a reasoned opinion within four months of such request on whether the claim of failure to comply is substantiated. If the Commission concludes that the claim is substantiated, it shall initiate the procedure referred to in paragraph 1 of this Article.

Article 4

Safeguard clause

1. Where a product originating in Ukraine is imported on terms which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, Common Customs Tariff duties under the Association Agreement on such product may be reintroduced at any time.

2. The Commission shall closely monitor the impact of this Regulation with regard to the products listed in Annexes I and II, including with regard to the prices on the Union market, taking into account the information on exports, imports and Union production of the products subject to the autonomous trade measures established by this Regulation.

3. The Commission shall take a formal decision to initiate an investigation within a reasonable period of time:

— at the request of a Member State, or

— at the request of any legal person or any association that does not have legal personality, acting on behalf of the Union industry, meaning all or a major proportion of Union producers of like or directly competing products, or

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— on the Commission's own initiative if it is apparent to the Commission that there is sufficient *prima facie* evidence of serious difficulties as referred to in paragraph 1.

For the purposes of this Article, 'major proportion' means Union producers whose collective output constitutes more than 50 % of the total Union production of the like or directly competing products produced by that portion of the Union industry which have expressed either support for or opposition to the request, and which represent no less than 25 % of total production of the like or directly competing products produced by the Union industry.

Where the Commission decides to initiate an investigation, it shall publish a notice in the *Official Journal of the European Union* announcing the initiation of the investigation. The notice shall provide a summary of the information received and state that any relevant information should be sent to the Commission. It shall specify the period within which interested parties may submit their views in writing. Such period shall not exceed four months from the date of publication of the notice.

4. The Commission shall seek all information it deems necessary and may verify the information received with Ukraine or any other relevant source. It may be assisted by officials of the Member State on whose territory verification might be sought, if that Member State requests such assistance by officials.

5. In examining whether serious difficulties as referred to in paragraph 1 exist, the Commission shall take account, inter alia, of the following factors concerning Union producers, where the information is available:

— market share,

— production,

— stocks,

— production capacity,

— capacity utilisation,

— employment,

— imports,

— prices.

6. The investigation shall be completed within six months of the publication of the notice referred to in paragraph 3 of this Article. The Commission may, in the case of exceptional circumstances, extend this period in accordance with the examination procedure referred to in Article 5(2).

7. Within three months of the completion of the investigation, the Commission shall take a decision on whether to reintroduce the Common Customs Tariff duties under the Association Agreement by way of an implementing act, in accordance with the examination procedure referred to in Article 5(2). That implementing act shall enter into force within one month of its publication. The Common Customs Tariff duties under the Association Agreement shall be reintroduced for as long as necessary to counteract the deterioration in the economic and/or financial situation of Union producers, or for as

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long as the threat of such deterioration persists. The period of reintroduction shall not exceed one year, unless it is extended in duly justified circumstances. Where the facts as finally established show that the conditions set out in paragraph 1 of this Article are not met, the Commission shall adopt an implementing act terminating the investigation and proceedings in accordance with the examination procedure referred to in Article 5(2).

8. Where exceptional circumstances requiring immediate action make an investigation impossible, the Commission may, after informing the Customs Code Committee referred to in Article 5(1), take any preventive measure which is necessary.

Article 5

Committee procedure

1. For the implementation of point (a) of Article 1(1) and Article 4 of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council [1]. 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 6

Assessment of the implementation of the autonomous trade measures

The Commission's annual report on the implementation of the Deep and Comprehensive Free Trade Area shall include a detailed assessment of the implementation of the autonomous trade measures provided for in this Regulation and shall include, insofar as appropriate, an assessment of the social impact of those measures in Ukraine and in the Union. Information on the utilisation of agriculture-related tariff quotas shall be made available via the website of the Commission.

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 for three years from 1 October 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

[1] 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).

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ANNEX I

ZERO-TARIFF QUOTAS FOR AGRICULTURAL PRODUCTS REFERRED TO IN POINT (a) OF ARTICLE 1(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature (CN), the wording of the description of the products is to be considered as having no more than an indicative value. For the purposes of this Annex, the scope of the preferential scheme is to be determined by CN codes as they exist on 1 October 2017.

Order No	CN code	Description of goods	Annual quota volume (in tonnes net weight unless otherwise specified)
09.6750	0409	Natural honey	2 500
09.6751	ex 1103 19 20 (1)	Barley groats	7 800
	1103 19 90	Groats and meals of cereals (excl. wheat, rye, oats, maize, rice and barley)	
	1103 20 90	Cereal pellets (excl. wheat, rye, oats, maize, rice and barley)	
	1104 19 10	Rolled or flaked wheat grains	
	1104 19 50	Rolled or flaked maize grains	
	1104 19 61	Rolled barley grains	
	1104 19 69	Flaked barley grains	
	ex 1104 29 (2)	Worked grains (for example, hulled, pearled, sliced or kibbled), other than of oats, of rye or of maize	
	1104 30	Germ of cereals, whole, rolled, flaked or ground	
09.6752	2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid	3 000
09.6753	2009 61 90	Grape juice (including grape must), of a Brix value not exceeding 30, of a value not exceeding 18 EUR per 100 kg net weight	500
	2009 69 11	Grape juice (including grape must), of a Brix value exceeding 67, of a value not exceeding 22 EUR per 100 kg net weight	
	2009 69 71 2009 69 79 2009 69 90	Grape juice (including grape must), of a Brix value exceeding 30 but not exceeding 67, of a value not exceeding 18 EUR per 100 kg net weight	
09.6754	1004	Oats	4 000

(1) TARIC code 1103 19 20 10.
(2) TARIC codes 1104 29 04 00, 1104 29 05 00, 1104 29 08 00, 1104 29 17 90, 1104 29 30 90, 1104 29 51 00, 1104 29 59 90, 1104 29 81 00 and 1104 29 89 90.

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ANNEX II

ZERO-TARIFF QUOTAS FOR AGRICULTURAL PRODUCTS REFERRED TO IN POINT (b) OF ARTICLE 1(1)

Notwithstanding the rules for the interpretation of the Combined Nomenclature (CN), the wording of the description of the products is to be considered as having no more than an indicative value. For the purposes of this Annex, the scope of the preferential scheme is to be determined by CN codes as they exist on 1 October 2017.

Where the CN code is preceded by 'ex', the application of the preferential arrangements is to be determined on the basis of the CN code and the description of the product.

Product	Tariff classification	Annual quota volume
Common wheat, spelt and meslin other than seed	1001 99 00	65 000 tonnes/year
Common wheat flour and spelt flour	1101 00 15	
Meslin flour	1101 00 90	
Cereal flour other than wheat, meslin, rye, maize, barley, oat, rice	1102 90 90	
Groats and meal of common wheat and spelt	1103 11 90	
Wheat pellets	1103 20 60	
Maize other than seed	1005 90 00	625 000 tonnes/year
Maize flour	1102 20	
Groats and meal of maize	1103 13	
Maize pellets	1103 20 40	
Worked grains of maize	1104 23	
Barley, other than seed	1003 90 00	325 000 tonnes/year
Barley flour	1102 90 10	
Barley pellets	ex 1103 20 25	

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ANNEX III

PREFERENTIAL CUSTOMS DUTIES APPLIED FOR THE INDUSTRIAL PRODUCTS REFERRED TO IN ARTICLE 1(2)

Notwithstanding the rules for the interpretation of the Combined Nomenclature (CN), the wording of the description of the products is to be considered as having no more than an indicative value. For the purposes of this Annex, the scope of the preferential scheme is to be determined by CN codes as they exist on 1 October 2017.

CN 2016	Description	Applied duties
	CHAPTER 31 — FERTILISERS	
3102 21 00	Ammonium sulphate (excl. that in pellet or similar forms, or in packages with a gross weight not exceeding 10 kg)	0 %
3102 40 10	Mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilising substances, with a nitrogen content not exceeding 28 % by weight (excl. those in pellet or similar forms, or in packages with a gross weight not exceeding 10 kg)	0 %
3102 50 00	Sodium nitrate (excl. that in pellet or similar forms, or in packages with a gross weight not exceeding 10 kg)	0 %
3105 20 10	Mineral or chemical fertilisers containing nitrogen, phosphorus and potassium, with a nitrogen content exceeding 10 % by weight on the dry anhydrous product (excl. those in tablets or similar forms, or in packages with a gross weight not exceeding 10 kg)	0 %
3105 51 00	Mineral or chemical fertilisers containing nitrates and phosphates	0 %
	CHAPTER 32 — TANNING OR DYEING EXTRACTS; TANNINS AND THEIR DERIVATIVES; DYES, PIGMENTS AND OTHER COLOURING MATTER; PAINTS AND VARNISHES; PUTTY AND OTHER MASTICS; INKS	
3206 11 00	Pigments and preparations based on titanium dioxide, containing 80 % or more by weight of titanium dioxide calculated on the dry matter	0 %
	CHAPTER 64 — FOOTWEAR, GAITERS AND THE LIKE; PARTS OF SUCH ARTICLES	
6402 91 90	Footwear covering the ankle, with outer soles and uppers of rubber or plastics	0 %
6402 99 98	Footwear with outer soles of rubber or plastics and uppers of plastics, with insoles of a length of 24 cm or more, for women	0 %
6403 99 96	Men's footwear with outer soles of rubber, plastics or composition leather and uppers of leather (not covering the ankle), with insoles of a length of 24 cm or more	0 %
6403 99 98	Footwear with outer soles of rubber, plastics or composition leather and uppers of leather, with insoles of a length of 24 cm or more, for women	0 %

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CN 2016	Description	Applied duties
	CHAPTER 74 — COPPER AND ARTICLES THEREOF	
7407 21 10	Bars and rods, of copper-zinc base alloys (brass)	0 %
7408 11 00	Wire of refined copper, with a maximum cross-sectional dimension of more than 6 mm	0 %
	CHAPTER 76 — ALUMINIUM AND ARTICLES THEREOF	
7601 10 00	Aluminium, not alloyed, unwrought	0 %
7601 20 20	Unwrought aluminium alloys in the form of slabs or billets	0 %
7601 20 80	Unwrought aluminium alloys (other than slabs and billets)	0 %
7604 21 00	Hollow profiles of aluminium alloys	0 %
7604 29 90	Solid profiles, of aluminium alloys	0 %
7616 99 90	Articles of aluminium, uncast	0 %
	CHAPTER 85 — ELECTRICAL MACHINERY AND EQUIPMENT AND PARTS THEREOF; SOUND RECORDERS AND REPRODUCERS, TELEVISION IMAGE AND SOUND RECORDERS AND REPRODUCERS, AND PARTS AND ACCESSORIES OF SUCH ARTICLES	
8525 80 99	Video camera recorders other than those only able to record sound and images taken by the television camera	0 %
8528 71 19	Video tuners (excl. electronic assemblies for incorporation into automatic data-processing machines and apparatus with a microprocessor-based device incorporating a modem for gaining access to the internet and having a function of interactive information exchange capable of receiving television signals, i.e. ‘set-top boxes with communication function’)	0 %
8528 71 99	Reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus, not designed to incorporate a video display or screen (excl. video tuners and set-top boxes with a communication function)	0 %
8528 72 40	Reception apparatus for television, colour, with LCD screen	0 %

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Commission Statement related to Article 3

The Commission notes that should it be impossible to implement the suspension of preferential arrangements before full utilisation of the annual zero-tariff rate quotas for agricultural products, the Commission shall endeavour proposing a reduction or suspension of these concessions in the following years.