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2015/0082 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on trade in certain steel products between the European Union and
the Republic of Kazakhstan (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 Council Regulation (EC) No 1340/2008 of 8 December 2008 on trade in certain steel products between the European Community and the Republic of Kazakhstan³. 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 23 official languages, of Regulation (EC) No 1340/2008 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 VII 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 2015.

⁴ See Annex VI to this proposal.

↓ 1340/2008 (adapted)

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**on trade in certain steel products between the European Union and
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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,

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) Council Regulation (EC) No 1340/2008⁶ has been substantially amended several times⁷. In the interests of clarity and rationality, that Regulation should be codified.

↓ 1340/2008 recital 1 (adapted)

- (2) Article 17(1) of the Partnership and Cooperation Agreement between the European Communities and their Member States and the Republic of Kazakhstan⁸ provides that trade in certain steel products is to be subject to a specific agreement on quantitative arrangements.

↓ 1340/2008 recital 2 (adapted)

- (3) The Agreement between the European Community and the Government of the Republic of Kazakhstan on trade in certain steel products⁹ concluded on 19 July 2005 expired on 31 December 2006.

⁵ OJ C [...], [...], p. [...].

⁶ Council Regulation (EC) No 1340/2008 of 8 December 2008 on trade in certain steel products between the European Community and the Republic of Kazakhstan (OJ L 348, 24.12.2008, p. 1).

⁷ See Annex VI.

⁸ OJ L 196, 28.7.1999, p. 3.

⁹ OJ L 232, 8.9.2005, p. 64.

↓ 1340/2008 recital 3 (adapted)

- (4) Pending the signature and entry into force of a new agreement or Kazakhstan's accession to the World Trade Organisation (WTO), quantitative limits starting in 2007 were laid down by Council Regulation (EC) No 1870/2006¹⁰, Council Regulation (EC) No 1531/2007¹¹ and Regulation (EC) No 1340/2008 .
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↓ 1340/2008 recital 5 (adapted)

- (5) It is necessary to provide the means to administer this regime within the Union in such a way as to facilitate the implementation of the new agreement by envisaging as much as possible similar provisions.
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↓ 1340/2008 recital 6 (adapted)

- (6) It is necessary to ensure that the origin of the products in question is checked and appropriate methods of administrative cooperation are specified to this end.
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↓ 1340/2008 recital 7 (adapted)

- (7) Products placed in a free zone or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system) should not be counted against the quantitative limits established for the products in question.
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↓ 1340/2008 recital 8 (adapted)

- (8) The effective application of this Regulation requires the use of a Union import licence for the entry into free circulation in the Union of the products in question.
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↓ 1340/2008 recital 9 (adapted)

- (9) In order to ensure that the applicable quantitative limits are not exceeded, it is necessary to lay down a procedure whereby the competent authorities of the Member States do not issue import licences before obtaining confirmation from the Commission that appropriate amounts remain available within the quantitative limit in question.
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↓ 38/2014 Art. 1 and Annex .7
(adapted)

- (10) In order to permit the effective administration of certain restrictions, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the

¹⁰ Council Regulation (EC) No 1870/2006 of 11 December 2006 on trade in certain steel products between the Community and the Republic of Kazakhstan (OJ L 360, 19.12.2006, p. 1).

¹¹ Council Regulation (EC) No 1531/2007 of 10 December 2007 on trade in certain steel products between the European Community and the Republic of Kazakhstan (OJ L 337, 21.12.2007, p. 2).

Commission in respect of amendments to Annex V to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council,

↓ 1340/2008 (adapted)

HAVE ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to imports into the Union of steel products listed in Annex I originating in the Republic of Kazakhstan.
2. The products referred to in paragraph 1 shall be classified in product groups as set out in Annex I.
3. The classification of products listed in Annex I shall be based on the Combined Nomenclature (CN) established by Council Regulation (EEC) No 2658/87¹².
4. The origin of the products referred to in paragraph 1 shall be determined in accordance with the rules in force in the Union .

Article 2

1. The importation into the Union of the steel products listed in Annex I originating in the Republic of Kazakhstan shall be subject to the quantitative limits laid down in Annex V. The release for free circulation in the Union of the products listed in Annex I originating in the Republic of Kazakhstan shall be subject to the presentation of a certificate of origin, set out in Annex II, and of an import licence issued by the Member States' authorities in accordance with Article 4.
2. In order to ensure that quantities for which import licences are issued do not exceed at any moment the total quantitative limits for each product group, the competent authorities listed in Annex IV shall issue import licences only upon confirmation by the Commission that there are still quantities available within the quantitative limits for the relevant product group of steel products in respect of the supplier country, for which an importer or importers have submitted applications to the said authorities.
3. The authorised imports shall be counted against the relevant quantitative limit laid down in Annex V. The shipment of products shall be considered as having taken place on the date on which they were loaded onto the exporting means of transport.

Article 3

1. The quantitative limits laid down in Annex V shall not apply to products placed in a free zone or free warehouse or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system).
2. Where the products referred to in paragraph 1 are subsequently released for free circulation, either in the unaltered state or after working or processing, Article 2(2) shall apply and the

¹² Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

products so released shall be counted against the relevant quantitative limit laid down in Annex V.

Article 4

1. For the purpose of applying Article 2(2), before issuing import licences, the competent authorities listed in Annex IV shall notify the Commission of the amounts of the requests for import licences, supported by original export licences, which they have received. By return, the Commission shall notify whether the requested amount(s) of quantities are available for importation in the chronological order in which the notifications of the Member States are received (first-come, first-served basis).
2. The requests included in the notifications to the Commission shall be valid if they establish clearly in each case the exporting country, the product code concerned, the amounts to be imported, the number of the export licence, the quota year and the Member State in which the products are intended to be put into free circulation.
3. As far as possible, the Commission shall confirm to the competent authorities listed in Annex IV the full amount indicated in the requests notified for each group of products.
4. The competent authorities listed in Annex IV shall notify the Commission immediately after being informed of any quantity that is not used during the duration of validity of the import licence. Such unused quantities shall automatically be transferred into the remaining quantities of the total Union quantitative limit for each product group.
5. The notifications referred to in paragraphs 1 to 4 shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.
6. The import licences or equivalent documents shall be issued in accordance with Articles 12 to 16.
7. The competent authorities of the Member States shall notify the Commission of any cancellation of import licences or equivalent documents already issued in cases where the corresponding export licences have been withdrawn or cancelled by the competent authorities of the Republic of Kazakhstan. However, if the Commission or the competent authorities of a Member State have been informed by the competent authorities of the Republic of Kazakhstan of the withdrawal or cancellation of an export licence after the related products have been imported into the Union , the quantities in question shall be set off against the relevant quantitative limit laid down in Annex V.

Article 5

1. Where the Commission has indications that products listed in Annex I originating in the Republic of Kazakhstan have been transhipped, re-routed or otherwise imported into the Union through circumvention of the quantitative limits referred to in Article 2 and that there is a need for the necessary adjustments to be made, it shall request that consultations be opened so that agreement may be reached on the necessary adjustment of the corresponding quantitative limits to be made.
2. Pending the outcome of the consultations referred to in paragraph 1, the Commission may ask the Republic of Kazakhstan to take the necessary precautionary steps to ensure that adjustments to the quantitative limits agreed following such consultations may be carried out.

↓ 38/2014 Art. 1 and Annex .7(1)
(adapted)

3. Should the Union and the Republic of Kazakhstan fail to arrive at a satisfactory solution and should the Commission note that there is clear evidence of circumvention, the Commission shall be empowered to adopt delegated acts in accordance with Article 17 in order to deduct from the quantitative limits an equivalent volume of products originating in the Republic of Kazakhstan and to amend Annex V accordingly.

Where a delay in action to address clear evidence of circumvention in a sufficiently expedient way would cause damage which would be difficult to repair, and therefore imperative grounds of urgency so require, the procedure provided for in Article 18 shall apply to delegated acts adopted pursuant to the first subparagraph.

↓ 1340/2008 (adapted)

Article 6

1. An export licence, to be issued by the competent authorities of the Republic of Kazakhstan, shall be required in respect of any consignment of steel products subject to the quantitative limits laid down in Annex V up to the level of the said limits.
2. The original of the export licence shall be presented by the importer for the purposes of the issue of the import licence referred to in Article 12.

Article 7

1. The export licence for quantitative limits shall conform to the specimen set out in Annex II and shall certify, *inter alia*, that the quantity of goods in question has been set off against the quantitative limit established for the product group concerned.
2. Each export licence shall cover only one of the product groups listed in Annex I.

Article 8

Exports shall be set off against the relevant quantitative limits laid down in Annex V and shipped within the meaning of Article 2(3).

Article 9

1. The export licence referred to in Article 6 may include additional copies duly indicated as such. The export licence and the copies thereof as well as the certificate of origin and the copies thereof shall be drawn up in English.
2. If the documents referred to in paragraph 1 are completed by hand, entries must be in ink and in block letters.
3. The export licences or equivalent documents shall measure 210 × 297 mm. The paper shall be white writing paper, sized, not containing mechanical pulp and weighing not less than 25 g/m². Each part shall have a printed guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

4. Only the original shall be accepted by the competent authorities in the ☒ Union ☒ as being valid for import purposes in accordance with the provisions of this Regulation.

5. Each export licence or equivalent document shall bear a standardised serial number, whether or not printed, by which it can be identified.

↓ 1012/2014 Art. 1.1 (adapted)

6. The serial number ☒ referred to in paragraph 5 ☒ shall be composed of the following elements:

- two letters identifying the exporting country as follows:
KZ = Republic of Kazakhstan;
- two letters identifying the Member State of intended destination as follows:
BE = Belgium
BG = Bulgaria
CZ = Czech Republic
DK = Denmark
DE = Germany
EE = Estonia
IE = Ireland
GR = Greece
ES = Spain
FR = France
HR = Croatia
IT = Italy
CY = Cyprus
LV = Latvia
LT = Lithuania
LU = Luxembourg
HU = Hungary
MT = Malta
NL = Netherlands
AT = Austria
PL = Poland
PT = Portugal
RO = Romania
SI = Slovenia
SK = Slovakia

FI = Finland

SE = Sweden

GB = United Kingdom;

- a one-digit number identifying the quota year corresponding to the last figure in the year in question, for example '9' for 2009;
 - a two-digit number identifying the issuing office in the exporting country;
 - a five-digit number running consecutively from 00 001 to 99 999 allocated to the specific Member State of destination.
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↓ 1340/2008 (adapted)

Article 10

The export licence may be issued after the shipment of the products to which it relates. In such cases it shall bear the endorsement 'issued retrospectively'.

Article 11

In the event of the theft, loss or destruction of an export licence, the exporter may apply to the competent authority which issued the document for a duplicate to be made out on the basis of the export documents in the exporter's possession.

The duplicate licence issued in this way shall bear the endorsement 'duplicate'. It shall bear the date of the original licence.

Article 12

1. To the extent that the Commission pursuant to Article 4 has confirmed that the amount requested is available within the quantitative limit in question, the competent authorities of the Member States shall issue an import licence within a maximum of five working days of the presentation by the importer of the original of the corresponding export licence. This presentation must be effected not later than 31 March of the year following that in which the goods covered by the licence have been shipped. Import licences shall be issued by the competent authorities of any Member State irrespective of the Member State indicated on the export licence, to the extent that the Commission, pursuant to Article 4, has confirmed that the amount requested is available within the quantitative limit in question.

2. The import licences shall be valid for four months from the date of their issue. Upon duly motivated request by an importer, the competent authorities of a Member State may extend the duration of validity for a further period not exceeding four months.

3. Import licences shall be drawn up in the form set out in Annex III and shall be valid throughout the customs territory of the Union .

4. The declaration or request made by the importer in order to obtain the import licence shall contain:

- (a) the full name and address of the exporter;
- (b) the full name and address of the importer;
- (c) the exact description of the goods and the TARIC code(s);

- (d) the country of origin of the goods;
- (e) the country of consignment;
- (f) the appropriate product group and the quantity for the products in question;
- (g) the net weight by TARIC heading;
- (h) the c.i.f. value of the products at Union frontier by TARIC heading;
- (i) whether the products concerned are seconds or of substandard quality;
- (j) where appropriate, dates of payment and delivery and a copy of the bill of lading and of the purchase contract;
- (k) the date and number of the export licence;
- (l) any internal code used for administrative purposes;
- (m) the date and signature of importer.

5. Importers shall not be obliged to import the total quantity covered by an import licence in a single consignment.

Article 13

The validity of import licences issued by the competent authorities of the Member States shall be subject to the validity of export licences and the quantities indicated in the export licences issued by the competent authorities of the Republic of Kazakhstan on the basis of which the import licences have been issued.

Article 14

Import licences or equivalent documents shall be issued by the competent authorities of the Member States in conformity with Article 2(2) and without discrimination to any importer in the Union wherever the place of its establishment may be in the Union , without prejudice to compliance with other conditions required under the current rules.

Article 15

1. If the Commission finds that the total quantities covered by export licences issued by the Republic of Kazakhstan for a particular product group exceed the quantitative limit established for that product group, the competent licence authorities in the Member States shall be informed immediately in order to suspend the further issue of import licences. In this event, consultations shall be initiated forthwith by the Commission.

2. The competent authorities of a Member State shall refuse to issue import licences for products originating in the Republic of Kazakhstan which are not covered by export licences issued in accordance with Articles 6 to 11.

Article 16

1. The forms to be used by the competent authorities of the Member States for issuing the import licences referred to in Article 12 shall conform to the specimen of the import licence set out in Annex III.

2. Import licence forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1 to be issued to the applicant, and the other, marked

'Copy for the issuing authority' and bearing the number 2, to be kept by the authority issuing the licence. For administrative purposes the competent authorities may add additional copies to form 2.

3. Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 g/m². Their size shall be 210 × 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the licence itself, shall in addition have a red printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

4. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an identification of the printer's name and address or a mark enabling the printer to be identified.

5. At the time of their issue the import licences or extracts shall be given an issue number determined by the competent authorities of the Member State. The import licence number shall be notified to the Commission electronically within the integrated network set up under Article 4.

6. Licences and extracts shall be completed in the official language, or one of the official languages, of the Member State of issue.

7. In box 10 the competent authorities shall indicate the appropriate steel product group.

8. The marks of the issuing agencies and debiting authorities shall be applied by means of a stamp. However, an embossing press combined with letters or figures obtained by means of perforation, or printing on the licence may be substituted for the issuing authority's stamp. The issuing authorities shall use any tamper-proof method to record the quantity allocated in such a way as to make it impossible to insert figures or references.

9. The reverse of copy No 1 and copy No 2 shall bear a box in which quantities may be entered, either by the customs authorities when import formalities are completed, or by the competent administrative authorities when an extract is issued. If the space set aside for debits on a licence or extract thereof is insufficient, the competent authorities may attach one or more extension pages bearing boxes matching those on the reverse of copy No 1 and copy No 2 of the licence or extract. The debiting authorities shall place their stamp in such a way that one half is on the licence or extract thereof and the other half is on the extension page. If there is more than one extension page, a further stamp shall be placed in like manner across each page and the preceding page.

10. Import licences and extracts issued, and entries and endorsements made, by the authorities of one Member State shall have the same legal effect in each of the other Member States as documents issued, and entries and endorsements made, by the authorities of such Member States.

11. The competent authorities of the Member States concerned may, where indispensable, require the contents of licences or extracts to be translated into the official language or one of the official languages of that Member State.

Article 17

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(3) shall be conferred on the Commission for a period of five years from 20 February 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 5(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 18

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 17(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.



Article 19

Regulation (EC) No 1340/2008 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 VII.

Article 20

This Regulation shall enter into force on the ☒ twentieth ☒ day ☒ following that ☒ of its publication in the *Official Journal of the European Union*. In the event that Kazakhstan accedes to the WTO, this Regulation shall expire as of the date of accession¹³.

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

¹³ The date of expiry will be published by the European Commission in the *Official Journal of the European Union*.