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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the application of Union tariff rate quotas and other import quotas - Outcome of the European Parliament's first reading (Brussels, 23 to 26 November 2020)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the rapporteur, Christophe HANSEN (EPP, LU), presented a compromise amendment (amendment number1) to the abovementioned proposal for a Regulation on behalf of the International Trade Committee. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 26 November 2020, the plenary adopted the compromise amendment (amendment number 1) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

The application of Union tariff rate quotas and other import quotas *I**

European Parliament legislative resolution of 26 November 2020 on the proposal for a regulation of the European Parliament and of the Council on the application of Union tariff rate quotas and other import quotas (COM(2020)0375 – C9-0274/2020 – 2020/0176(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0375),
 - having regard to Article 294(2) and to Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0274/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 18 November 2020 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A9-0216/2020),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2020)0176

Position of the European Parliament adopted at first reading on 26 November 2020 with a view to the adoption of Regulation (EU) 2020/... of the European Parliament and of the Council on the application of Union tariff rate quotas and other import quotas

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,

Acting in accordance with the ordinary legislative procedure²,

² Position of the European Parliament of 26 November 2020.

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the ‘Withdrawal Agreement’) was concluded on behalf of the Union by Council Decision (EU) 2020/135³ and entered into force on 1 February 2020.
- (2) Article 4 of the Protocol on Ireland/Northern Ireland annexed to the Withdrawal Agreement (the ‘Protocol’) reiterates that Northern Ireland is part of the customs territory of the United Kingdom and that nothing in the Protocol prevents the United Kingdom from including Northern Ireland in the territorial scope of its Schedules of Concessions annexed to the General Agreement on Tariffs and Trade 1994 (GATT 1994).
- (3) Article 13(1) of the Protocol provides that notwithstanding any other provisions of the Protocol, any reference to the customs territory of the Union in the applicable provisions of the Protocol or in the provisions of Union law made applicable to and in the United Kingdom in respect of Northern Ireland by the Protocol shall be read as including the land territory of Northern Ireland.

³ Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

- (4) Under Article 5(3) of the Protocol, Union customs legislation as defined in point 2 of Article 5, of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁴ applies to and in the United Kingdom in respect of Northern Ireland. Those provisions, read in conjunction with the first and second subparagraphs of Article 5(1) of the Protocol as regards goods brought into Northern Ireland from outside the Union, mean that Union tariff measures, including tariff rate quotas under the Common Customs Tariff or relevant international agreements, would be applicable to such goods where those goods are considered to be at risk of subsequently being moved into the Union. Those tariff rate quotas include import tariff rate quotas in the Union's schedules of commitments under GATT 1994, import tariff rate quotas agreed in the Union's bilateral international agreements, including origin derogation quotas, import tariff rate quotas under the Union's trade defence regimes, other autonomous import tariff rate quotas, and export tariff rate quotas provided for in agreements with third countries.

⁴ 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).

- (5) Under Article 5(4) of the Protocol, Union law listed in Annex 2 to the Protocol also applies to and in the United Kingdom in respect of Northern Ireland, under the conditions set out in that Annex. That Annex includes Union legislation providing for certain import quotas.
- (6) The bilateral arrangements between the Union and the United Kingdom under the Protocol do not give rise to rights and obligations for third countries. Consequently, any imports pursuant to Union import tariff rate quotas or other import quotas applying to goods originating in a third country that are brought into Northern Ireland cannot be counted towards that third country's rights *vis-à-vis* the Union, unless agreed by the third country. That situation poses a risk to the proper functioning of the Union's internal market and the integrity of the Common Commercial Policy by allowing the possible circumvention of the Union's tariff rate quotas or other import quotas.

- (7) To address that risk, the Union's import tariff rate quotas and other import quotas should be available only for goods imported and released into free circulation in the Union and not in Northern Ireland.
- (8) Any agreement between the Union and a third country providing for export tariff rate quotas applies only to goods imported into the Union. Therefore, that third country could refuse to issue export licenses for direct imports into Northern Ireland.
- (9) By virtue of Article 5(3) and (4) of the Protocol in conjunction with its Article 13(3), this Regulation also applies to and in the United Kingdom in respect of Northern Ireland,

HAVE ADOPTED THIS REGULATION:

Article 1

Goods imported from outside the Union shall be eligible for treatment pursuant to Union import tariff rate quotas or other import quotas or pursuant to export tariff rate quotas applied by third countries only if those goods are released into free circulation in the following territories:

- the territory of the Kingdom of Belgium,
- the territory of the Republic of Bulgaria,
- the territory of the Czech Republic,
- the territory of the Kingdom of Denmark, except the Faroe Islands and Greenland,
- the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Büsingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),
- the territory of the Republic of Estonia,
- the territory of Ireland,

- the territory of the Hellenic Republic,
- the territory of the Kingdom of Spain, except Ceuta and Melilla,
- the territory of the French Republic, except the French overseas countries and territories to which the provisions of Part Four of the Treaty on the Functioning of the European Union apply, but including the territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Journal officiel de la République française of 27 September 1963, p. 8679),
- the territory of the Republic of Croatia,
- the territory of the Italian Republic, except the municipality of Livigno,
- the territory of the Republic of Cyprus, in accordance with the provisions of the 2003 Act of Accession,
- the territory of the Republic of Latvia,
- the territory of the Republic of Lithuania,
- the territory of the Grand Duchy of Luxembourg,
- the territory of Hungary,

- the territory of Malta,
- the territory of the Kingdom of the Netherlands in Europe,
- the territory of the Republic of Austria,
- the territory of the Republic of Poland,
- the territory of the Portuguese Republic,
- the territory of Romania,
- the territory of the Republic of Slovenia,
- the territory of the Slovak Republic,
- the territory of the Republic of Finland,
- the territory of the Kingdom of Sweden, and
- the territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960.

Article 2

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 from 1 January 2021.

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

Done at ...,

For the European Parliament

For the Council

The President

The President