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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 amending Council Regulation (EC) No 428/2009 by granting a Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland - Outcome of European Parliament's first reading (Brussels, 23 to 26 November 2020)

I. INTRODUCTION

On 18 November 2020, the Permanent Representatives Committee confirmed that, should the European Parliament approve the abovementioned Commission proposal without amendments, the Council would approve the European Parliament's position.

II. VOTE

The Parliament adopted its first-reading position on 26 November 2020 by taking over the Commission's proposal. This position is contained in its legislative resolution.

The Council should therefore be in a position to approve the European Parliament's position as set out in the Annex hereto, thus bringing to a close the first reading for both Institutions.

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

P9_TA(2020)0334

Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland ***I

European Parliament legislative resolution of 26 November 2020 on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 428/2009 by granting a Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland (COM(2020)0692 – C9-0345/2020 – 2020/0313(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2020)0692),

– having regard to Article 294(2) and Article 207(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0345/2020),

– 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 Rules 59 and 163 of its Rules of Procedure,

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)0313

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 amending Annex IIa to Council Regulation (EC) No 428/2009 as regards granting a Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland

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 procedure[1],

[1] Position of the European Parliament of 26 November 2020.

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). In accordance with that Article, 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[2] (the 'Withdrawal Agreement') was concluded on behalf of the Union by Council Decision (EU) 2020/135[3].

(2) According to the terms of the Withdrawal Agreement, the United Kingdom is no longer a Member State of the European Union since 31 January 2020, and Union primary and secondary law will cease to apply to and in the United Kingdom when the transition period set out in the Withdrawal Agreement ends on 31 December 2020.

(3) Council Regulation (EC) No 428/2009[4] sets up a common system for the control of exports of dual-use items in order to promote Union and international security and to provide a level playing field for Union exporters.

(4) Regulation (EC) No 428/2009 provides for Union General Export Authorisations which facilitate controls on low-risk exports of dual-use items to certain third countries. Currently, Australia, Canada, Japan, New Zealand, Norway, Switzerland, including Liechtenstein, and the United States of America are covered by Union General Export Authorisation No EU001.

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2 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. 7).

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 Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

(5) The United Kingdom is a party to relevant international treaties and a member of international non-proliferation regimes, and maintains full compliance with related obligations and commitments.

(6) The United Kingdom applies proportionate and adequate controls to effectively address considerations about intended end use and the risk of diversion consistent with the provisions and objectives of Regulation (EC) No 428/2009.

(7) Adding the United Kingdom to the to the list of countries included in Union General Export Authorisation No EU001, would not negatively affect the security of the Union or international security.

(8) Considering that the United Kingdom is an important destination for dual-use items produced in the Union, it is appropriate to add the United Kingdom to the list of destinations covered by the Union General Export Authorisation No EU001 in order to ensure the uniform and consistent application of controls throughout the Union, to provide a level playing field for Union exporters and to avoid unnecessary administrative burden, while protecting Union and international security.

(9) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of avoiding disproportionate trade disruptions and excessive administrative burden for Union exports of dual-use items to the United Kingdom, to lay down rules on the inclusion of the United Kingdom in the Union General Export Authorisation No EU001. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the TEU.

(10) In view of urgency entailed by the circumstances of the United Kingdom's withdrawal from the Union, it is considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(11) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union* and should apply from 1 January 2021 in order to ensure that the United Kingdom be included in Union General Export Authorisation No EU001 without delay,

HAVE ADOPTED THIS REGULATION:

Article 1

Annex IIa to Regulation (EC) No 428/2009 is amended as follows:

(1) in the title, the wording "Exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland, including Liechtenstein, and United States of America" is replaced by the following:

"Exports to Australia, Canada, Japan, New Zealand, Norway, Switzerland, including Liechtenstein, United Kingdom and United States of America";

(2) in Part 2, the following indent is inserted after the sixth indent:

"- United Kingdom (without prejudice to the application of this Regulation to and in the United Kingdom in respect of Northern Ireland, in accordance with point 47 of Annex 2 to the Protocol on Ireland/Northern Ireland (the 'Protocol') annexed to 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*, listing the provisions of Union law referred to in Article 5(4) of the Protocol).

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* 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. 7). ".

Article 2

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 from 1 January 2021.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*