



Council of the
European Union

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2022/0098(NLE)
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ADD 1

LIMITE

WTO 58
AGRI 137
UD 76
UK 64

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	7905/22 + ADD 1, 7906/22 + ADD 1
Subject:	<p>Council Decision on the signing, on behalf of the Union, of the Agreement between the European Union and New Zealand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union</p> <p>- Adoption</p> <p>and</p> <p>Council Decision on the conclusion, on behalf of the Union, of the Agreement between the European Union and New Zealand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union</p> <p>- Request for the consent of the European Parliament</p>

Statement by the Commission

The Commission considers that the Decision on the signing of the agreement should refer to the person designated by the negotiator as the one to be empowered to sign. Therefore, the changes that provide for the President of the Council to designate the person who is to sign the agreement on behalf of the Union are not in accordance with the Treaties.

All acts of external representation in the process of treaty-making, including the signature of an international agreement and the subsequent expression of the consent to be bound by it are in accordance with Article 17(1) TEU the institutional prerogatives of the Commission, with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union. When the Commission and another actor designated by the Council co-sign an international agreement on behalf of the Union, only the signature of the Commission commits the Union.

The Court of Justice has emphasized that consistent practice by Union institutions that is not in accordance with the EU Treaties ‘cannot alter the rules of the Treaties that the institutions are obliged to respect’ (Case C-687/15 Commission v Council, EU:C:2017:803, para. 42).

While not opposing the adoption of the amendment by the Council by a qualified majority vote, the Commission reserves all its rights in this regard.
