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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	COM(2023) 125
No. prev. doc.:	ST 6932/23 INIT ST 6932/23 ADD 1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2020/2170 as regards the application of Union tariff rate quotas and other import quotas to certain products transferred to Northern Ireland

1. On 27 February 2023, the Commission submitted to the Council a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2020/2170 as regards the application of Union tariff rate quotas and other import quotas to certain products transferred to Northern Ireland (ST 6932/23 + COR 1+ADD 1 + ADD1 COR 1).

2. This proposal forms part of a wider package referred to as the ‘Windsor Framework’. Other acts forming part of the package include:
- a. Council Decision on the position to be taken on behalf of the European Union in the Joint Committee established by 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 as regards a decision to be adopted, and recommendations and joint and unilateral declarations to be made. This Council Decision was adopted on 21 March and is contained in document ST 7099/23 + ADD 1. The subsequent Joint Committee Decision 1/2023 was adopted and the Recommendations and Declarations were made on 24 March 2023 in this Joint Committee.
 - b. Council Decision on the position to be taken on behalf of the European Union in the Joint Consultative Working Group established by 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 as regards the amendment of its rules of procedure. This Council Decision was adopted on 21 March 2023 and is contained in document ST 7098/23 + ADD1.
 - c. Proposal for a Regulation of the European Parliament and of the Council on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland (ST 6931/23+COR 1+ADD 1, COR 1).
 - d. Proposal for a Regulation of the European Parliament and of the Council on specific rules relating to medicinal products for human use intended to be placed on the market of Northern Ireland (ST 6928/23+COR1, compromise proposal contained in document ST 7470/23).

3. The Proposal for a Regulation regarding the application of Union tariff rate quotas and other duties to certain products transferred to Northern Ireland aims at allowing the transfer of certain steel products from Great Britain to Northern Ireland under the Union's tariff rate quotas to ensure the economic viability of those transfers.
4. The Commission presented the proposal on 28 February 2023 to the Working Party on the United Kingdom, where it was discussed again on 10 March 2023. The Customs Working Party discussed the proposal in its meetings on 10 and on 22 March 2023.
5. On 28 March 2023 the Working Party on the United Kingdom found an agreement on the text without any modifications.
6. The services of the General Secretariat of the Council and of the European Parliament have worked together to ensure that the proposal is adopted in the same wording in both institutions.
7. In light of the agreement in substance between both institutions, the Permanent Representatives Committee is invited to:
 - Confirm its agreement on the text as set out in the Annex I to this note with a view to reaching an agreement at first reading with the European Parliament; and to
 - authorise the Chair of the Permanent Representatives Committee to send the letter contained in Annex II to the European Parliament, confirming that, should the European Parliament adopt its position at first reading according to Article 294(3) of the Treaty on the Functioning of the European Union (TFEU) in the form as set out in the Annex I to this note, subject to revision by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position according to Article 294(4) TFEU and the act will be adopted in the wording which corresponds to the European Parliament's position at first reading.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EU) 2020/2170 as regards the application of Union tariff rate quotas
and other import quotas to certain products transferred to 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,

Whereas:

- (1) Article 1 of Regulation (EU) 2020/2170 of the European Parliament and of the Council¹ provides that goods imported from outside the Union are eligible for treatment pursuant to Union import tariff rate quotas or other import quotas only if they are released for free circulation in the territories listed therein. That provision addresses the risks to the proper functioning of the Union's internal market and the integrity of the Common Commercial Policy that would result from the possible circumvention of the Union's tariff rate quotas or other import quotas. The territories set out in that provision do not include Northern Ireland.

¹ Regulation (EU) 2020/2170 of the European Parliament and of the Council of 16 December 2020 on the application of Union tariff rate quotas and other import quotas (OJ L 432, 21.12.2020, p. 1).

- (2) The Trade and Cooperation Agreement² ('TCA') between the United Kingdom and the European Union provides for the opening by the Union of quotas with regard to imports into the Union of certain products originating in the United Kingdom. In addition, the TCA confers upon the Union the right to introduce other tariff rate quotas or import quotas with regard to imports of goods originating in the United Kingdom under certain circumstances, including as part of the application of multilateral safeguard measures in accordance with the WTO Agreement. It is necessary, therefore, to clarify whether goods originating in the United Kingdom and released for free circulation in Northern Ireland are eligible for treatment under those tariff rate quotas or other import quotas.
- (3) The United Kingdom is bound by the arrangements laid down in the Protocol on Ireland/Northern Ireland (the 'Protocol') 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 ('the Withdrawal Agreement'). Therefore, the legal relationship between the Union and the United Kingdom in respect of goods originating in the United Kingdom and released for free circulation in Northern Ireland is fundamentally different from that between the Union and any other third country in respect of goods originating in that third country and released for free circulation in Northern Ireland.
- (4) The United Kingdom has provided evidence showing that certain steel products originating in the United Kingdom that are currently subject to safeguard measures under Commission Implementing Regulation (EU) 2019/159³ ('the products concerned') have been transferred in significant quantities to Northern Ireland from other parts of the United Kingdom. In order to ensure the economic viability of these transfers and in view of the specific circumstances in Northern Ireland, it is appropriate to allow for the products concerned to benefit from the respective Union's tariff rate quotas when they are released for free circulation in Northern Ireland.

² OJ L 444, 31.12.2020, p.14.

³ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

- (5) In order to limit the risk of circumvention of the Union's tariff rate quotas applicable to the products concerned by imports of the same products originating in other countries, the products concerned should be consigned directly from other parts of the United Kingdom.
- (6) Moreover, the United Kingdom has undertaken to take the necessary measures, in accordance with the Protocol, to ensure that the transfers of the products concerned using Union's tariff rate quotas are timely counted against those quotas, in the same way as if those goods were imported into the Union.
- (7) Regulation (EU) 2020/2170 should therefore be amended accordingly.
- (8) Since the need for importation in Northern Ireland of the products concerned may vary over time, in order to adjust the list of products concerned the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the products concerned. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (9) By virtue of Article 5(3) and (4) of the Protocol in conjunction with Article 13(3) thereof, this Regulation also applies to and in the United Kingdom in respect of Northern Ireland.

- (10) In order to avoid any potential disruption in the transfers of the products concerned from other parts of the United Kingdom to Northern Ireland, this Regulation should enter into force as soon as possible,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2020/2170 is amended as follows:

- (1) In Article 1 the following second paragraph is added:

“Goods listed in the Annex originating in the United Kingdom that are subject to safeguard measures under Commission Implementing Regulation (EU) 2019/159* and that are brought into Northern Ireland by direct transport from other parts of the United Kingdom shall also be eligible for treatment pursuant to Union import tariff rate quotas if those goods are released for free circulation in the territory of Northern Ireland.

*Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).”;

- (2) the following Articles are inserted:

“Article 1a

The Commission is empowered to adopt delegated acts, in accordance with Article 1b, amending this Regulation in order to add to the list set out in the Annex certain categories of goods originating in the United Kingdom that are subject to safeguard measures under Implementing Regulation (EU) 2019/159, that are brought into Northern Ireland by direct transport from other parts of the United Kingdom provided that the United Kingdom has demonstrated to the satisfaction of the Union a need for these goods to be released into free circulation in Northern Ireland.

Article 1b

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 shall be conferred on the Commission for a period of five years from [OP:please insert the date of entry into force of this Regulation]. 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 1a 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 on any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 1a shall enter into force only if no objection has been expressed either by the European Parliament or by 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.”
- (3) The text set out in the Annex to this Regulation is added as Annex.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

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

ANNEX

TRQ Description	CN Codes
Steel category 7	7208 51 20, 7208 51 91, 7208 51 98, 7208 52 91, 7208 90 20, 7208 90 80, 7210 90 30, 7225 40 12, 7225 40 40, 7225 40 60, 7225 99 00
Steel category 17	7216 31 10, 7216 31 90, 7216 32 11, 7216 32 19, 7216 32 91, 7216 32 99, 7216 33 10, 7216 33 90

Brussels, 5 April 2023

Mr Bernd Lange
Chair, European Parliament Committee on International Trade
European Parliament
60, rue Wiertz
B - 1047 BRUSSELS
Belgium

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2020/2170 as regards the application of Union tariff rate quotas and other import quotas to certain products transferred to Northern Ireland **(2023/0063(COD))**

Dear Sir,

I would like to inform you that the Permanent Representatives Committee agreed today to the above mentioned proposal without any modifications. For your information, I attach the text, which is identical to the text adopted by the Commission, in the annex to this letter.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294, paragraph 3 of the Treaty, in the wording of the Commission proposal as copied in the Annex to this letter, subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council, I wish to thank you for your close and swift cooperation on this file, which should enable us to reach agreement on this file in first reading.

Yours faithfully,

L. DANIELSSON
Chairman of the
Permanent Representatives Committee

Copy: Mr Maroš ŠEFČOVIČ, Vice President of the European Commission, Seán Kelly,
rapporteur (INTA)