



2018/0158(COD)

31.8.2018

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on the apportionment of tariff rate quotas included in the WTO schedule of the Union following the withdrawal of the United Kingdom from the Union and amending Council Regulation (EC) No 32/2000 (COM(2018)0312 – C8-0202/2018– 2018/0158(COD))

Committee on International Trade

Rapporteur: Godelieve Quisthoudt-Rowohl

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the apportionment of tariff rate quotas included in the WTO schedule of the Union following the withdrawal of the United Kingdom from the Union and amending Council Regulation (EC) No 32/2000 (COM(2018)0312 – C8- C8-0202/2018– 2018/0158(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0312),
 - 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 (C8-0202/2018),
 - having regard to Article 294(3) 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 and the opinion of Committee on Agriculture and Rural Development (A8-0000/2018),
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.

Amendment 1

Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Council Regulation (EC) No 32/2000 confers powers on the Commission in order to implement some of the provisions of that Regulation. Following the entry into force of the Lisbon Treaty, it is appropriate to align those powers to Articles 290 and 291 of the Treaty on the Functioning of the

European Union (TFEU). Such alignment should be done, where appropriate, through the granting of delegated powers to the Commission and by applying certain procedures set out in Regulation (EU) No 182/2011 of the European Parliament and of the Council. To that end, implementing powers conferred on the Commission by that Regulation should be replaced by powers to adopt delegated and implementing acts.

Or. en

Amendment 2

Proposal for a regulation Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1 a

The Union's portion of tariff rate quotas as laid down in Article 1 shall be determined by applying the following procedure:

- 1) The Union's usage share of imports, in percentages, for each individual tariff rate quota shall be established, over a recent representative three-year period;*
- 2) The Union's usage share of imports, in percentages, shall be applied to the entire scheduled tariff rate quota volume to arrive at its share in volume of a given tariff rate quota;*
- 3) For individual tariff rate quotas for which no trade can be observed during the representative period as laid down in point 1, the Union's portion shall instead be established, by following the procedure laid down in point 2, on the basis of, the Union's usage share of imports, in percentages, of another tariff rate quota with the exact same product definition, or in the corresponding tariff lines outside of*

the tariff rate quota.

Or. en

Amendment 3

Proposal for a regulation

Article 2

Text proposed by the Commission

Amendment

Article 2

deleted

Annex I to Council Regulation (EC) No 32/2000 shall be replaced by the text in Part B of the Annex to this Regulation.

Or. en

Amendment 4

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 4 to amend *the* Annex to this Regulation *and Annex I to Regulation (EC) No 32/2000* in order to take account of the following:

The Commission is empowered to adopt delegated acts in accordance with Article 4 to amend *part A of the* Annex to this Regulation in order to take account of the following, *while ensuring consistency with the common methodology agreed jointly with the United Kingdom and in particular ensuring that the market access into the Union as composed after the withdrawal of the United Kingdom does not exceed that which is reflected in the share of trade flows during a representative period:*

Or. en

Amendment 5

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) pertinent information that it may receive either in the context of negotiations under Article XXVIII of the General Agreement on Tariffs and Trade 1994 or *through* other means.

Amendment

(b) pertinent information that it may receive either in the context of negotiations under Article XXVIII of the General Agreement on Tariffs and Trade 1994 or *from* other sources with an interest in a specific tariff quota.

Or. en

Amendment 6

Proposal for a regulation

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3 a

Council Regulation (EC) No 32/2000 shall be amended as follows:

(1) Article 6, paragraph 2 is replaced by the following:

“2. The decision to withdraw temporarily, in whole or in part, entitlement to the tariff quotas referred to in paragraph 1 shall be adopted by means of implementing acts, following appropriate prior consultations undertaken by the Commission with the beneficiary country in question. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).”

(2) Article 9, paragraph 1 is replaced by the following:

“1. The Commission is empowered to adopt delegated acts in accordance with Article 10a to amending Annexes I - VII:

(a) where amendments and technical adjustments are necessitated by changes in the Combined Nomenclature and Taric codes;

(b) where adjustments are made necessary by:

—the conclusion by the Council of agreements or exchanges of letters within the framework of the GATT or compliance with the Union's contractual obligations to certain countries within the framework of the GATT, or

—extension of the scheme of generalised preferences in respect of jute and coconut-fibre products;

(c) to add developing countries to the lists contained in Annexes IV and V at the official request of an applicant country that offers the necessary guarantees for checking the authenticity of these products;

(d) where amendments and adjustments are required to the definitions for hand-made products and handloom fabrics as well as to the specimen certificates of authenticity;

1a. Any amendment to Annex I, as laid down in paragraph 1, that results from United Kingdom's withdrawal from the Union:

(a) shall ensure consistency with the common methodology agreed jointly with the United Kingdom and in particular ensure that the market access into the Union as composed after the withdrawal of the United Kingdom does not exceed that which is reflected in the share of trade flows during a representative period; and

(b) may also be adopted to take account of pertinent information that the Commission may receive either in the context of negotiations under Article XXVIII of the General Agreement on Tariffs and Trade 1994 or from other

sources with an interest in a specific tariff quota”.

(3) Article 10 shall be replaced by the following:

“1. The Commission shall be assisted by the Customs Code Committee instituted by Article 285 of Regulation (EU) No 952/2013.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.”

(4) The following Article 10a is inserted:

“Article 10a

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 9 shall be conferred on the Commission for a period of five years from ... [date of entry into force of this amending 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 9 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. 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 of 13 April 2016 on Better Law-Making.

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 9 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.”

(5) Annex I is replaced by Part B of the Annex to this Regulation.

Or. en

Amendment 7

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

(2) The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for a period of **[4]** years from the date of entry into force of this Regulation.

Amendment

(2) The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for a period of **five** years from 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.

Or. en

Amendment 8

Proposal for a regulation

Article 4 – paragraph 6

Text proposed by the Commission

(6) A delegated act adopted pursuant to Article 3 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 [*one month*] at the initiative of the European Parliament or of the Council.

Amendment

(6) A delegated act adopted pursuant to Article 3 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.

Or. en

Amendment 9

Proposal for a regulation

Article 4 – paragraph 2

Text proposed by the Commission

Articles 1 and 2 shall apply from the date on which Union law ceases to apply to the United Kingdom in accordance with an agreement concluded by the Union and the United Kingdom pursuant to Article 50 of the Treaty on European Union or, in the absence of such an agreement, from 30 March 2019.

Amendment

Article 1 and Article 3a new(5) shall apply from the date on which Union law ceases to apply to the United Kingdom in accordance with an agreement concluded by the Union and the United Kingdom pursuant to Article 50 of the Treaty on European Union or, in the absence of such an agreement, from 30 March 2019.

Or. en

(The numbering of the Articles is not correct in the Commission's proposal. There are two articles numbered as 4 by mistake)

EXPLANATORY STATEMENT

On 29 March 2017, the Government of the United Kingdom (UK) notified the European Council of the UK's intention to withdraw from the European Union (EU) of which it is currently a Member State. Thus, it is anticipated that the UK will cease to be a Member State of the EU as from 30 March 2019. In this context, it is necessary to address the apportionment of the respective EU and UK tariff rate quotas included in the EU's WTO schedule of concessions and commitments annexed to the GATT 1994.

The EU is conducting negotiations with third countries under GATT Article XXVIII to modify EU WTO schedule where it contains tariff rate quota volumes. It is however not certain that all these negotiations would be concluded by agreement within the time before the UK is no longer covered under the EU's WTO schedule. It is therefore necessary to ensure that, in the absence of such agreements, the EU can nevertheless proceed with the apportionment of the tariff rate quotas by modifying the WTO tariff concessions and that the Commission is given the necessary powers to consequently amend the relevant EU provisions on the opening and implementation of the relevant tariff rate quotas.

The proposal lists how tariff rate quotas figuring in the EU's WTO schedule of concessions and commitments will be apportioned between the EU and the UK. It also gives the Commission the power to modify this apportionment by delegated acts should it become necessary following the later concluded agreements with third countries. Tariff rate quotas for agricultural and non-agricultural products are concerned.

The rapporteur agrees with the general spirit and objectives of the proposal, as the EU should be equipped with all necessary tools not to have trade with third countries disrupted after the departure of the UK from the EU, and in the event that it is not possible to conclude appropriate agreements with third countries in good time. The rapporteur proposes nevertheless some amendments to the proposal, as described hereafter.

Firstly, in the interest of legal clarity it is necessary to enshrine in the provisions of the regulation, not only recitals, the methodology that is at the basis of the apportionment of existing tariff rate quotas between the EU and the UK.

Secondly, the scope of the delegation of powers to the Commission as currently provided under Article 3 should be further clarified.

Finally, this draft report addresses an issue that the rapporteur considers, the Commission should have addressed directly in the proposal. Namely, the proposal includes a delegation of power that would have the effect of modifying Annex I to Regulation (EC) No 32/2000¹. Under Article 290 TFEU an empowerment to adopt delegated acts, under one legislative act cannot have the effect of modifying another legislative act (that is, to modify another legislative act the delegation of powers has to be contained therein). The rapporteur notes that Regulation (EC) No 32/2000, despite the commitments undertaken as of latest, in particular,

¹ Council Regulation (EC) No 32/2000 of 17 December 1999 opening and providing for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishing detailed rules for adjusting the quotas, and repealing Council Regulation (EC) No 1808/95 (OJ L 5, 8.1.2000, p. 1).

in paragraph 27 of the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹, has not been aligned to the provisions of Article 290 and 291 TFEU. As an example, it should be noted that all main legislative acts in the area of trade policy were aligned to delegated and implementing acts already in 2014 by the so-called Trade Omnibus I² and Trade Omnibus II³. Therefore the rapporteur sees no choice but to incorporate the alignment to delegated and implementing acts of Regulation (EC) 32/2000 in the current regulation.

Furthermore, given the general uncertainty with regard to the process of the UK's withdrawal from the EU, the delegation of power should have a renewable duration, as is the general practice.

¹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1–14.)

² Regulation (EU) No 37/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the procedures for the adoption of certain measures (OJ L 18, 21.1.2014, p. 1–51).

³ Regulation (EU) No 38/2014 of the European Parliament and of the Council of 15 January 2014 amending certain regulations relating to the common commercial policy as regards the granting of delegated and implementing powers for the adoption of certain measures (OJ L 18, 21.1.2014, p. 52–69).

