

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

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PARLIAMENT AND OF THE COUNCIL

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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⁾,

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) 2020/135⁽²⁾ 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.
- (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 Council⁽³⁾ 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.

- (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 Brussels, 16 December 2020.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

M. ROTH

Status: This is the original version (as it was originally adopted).

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- (1) Position of the European Parliament of 26 November 2020 (not yet published in the Official Journal) and decision of the Council of 4 December 2020.
- (2) 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).
- (3) 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).