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***Reporting back on the conclusion of the INTA/AFCO/AFET file on autonomous measures trilogue***

**Committee on Constitutional Affairs (AFCO)**

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After the conclusion of the Trade and Cooperation Agreement (TCA), the Council, in its decision, empowered the Commission to adopt the autonomous measures under the TCA on behalf of the Union ‘until a specific legislative act regulating the adoption of the measures’ enters into force.

The Commission did not have such rights under the Withdrawal Agreement (WA).

The Commission draft regulation under consideration covers both the WA and the TCA and intends to empower the Commission to adopt, amend, suspend or repeal, as appropriate, by means of implementing act, a number of measures provided for in both the WA and the TCA between the EU and the UK. There are three types of measures for the WA and six for the TCA.

The measures include, among others, compensatory measures, remedial measures, rebalancing measures, countermeasures, safeguard measures, or the suspension of obligations under the TCA in case of breach of certain provisions of such agreements or non-fulfilment of certain conditions.

Following the vote in plenary on 17 October 2022, Parliament, Commission and Council sat in two high level and two technical trilogues. We successfully concluded the trilogues on Wednesday, 30 November.

This is the result of the trilogue:

We empowered the Commission with an effective crisis management tool that will be proportionate in its response to UK breaches and that will have to comply with specific criteria established in the TCA and WA, namely on fisheries rights.

The autonomous measures will have to be adopted in accordance with the principle of subsidiarity as per Article 5 TEU.

With this regulation, we managed to strike a good balance between giving a tool that the Commission will be able to rapidly deploy and a tool that will have to be proportionate.

The Commission will not be unnecessarily tied by criteria that could have lengthened the deployment of autonomous measures. This would have made the measures irrelevant.

This was an important point of the inter-institutions negotiations as the UK does not have any special act with legal strings restricting its actions against the EU. The UK is only bound by what is in the TCA and WA.

Parliament’s main challenge as it entered into trilogue was to secure its right of information regarding any autonomous measures taken by the Commission if the UK breaches its commitments under both the TCA and WA.

We have successfully secured Parliament’s information rights in an article and a recital.

We have introduced a new article that guarantees that Parliament will be “immediately and fully” informed if the UK breaches either the TCA or the WA in accordance with the Treaties.

Likewise, Parliament’s right of scrutiny is clearly laid out in the Regulation.

The Regulation will require the Commission to submit an annual report to both the Council and Parliament on the implementation and application of the TCA. The annual report should also include an overview of the complaints.

The Regulation also carves out of its scope Gibraltar and the suspension, in whole or in part, of access to Union water for fisheries.

The Parliament and Council agreed to lower the timeline to start the review of this Regulation from five to three years after its entry into force.

Importantly, the EU was able to stay united as no political statements will be issued by any of the institutions. This was the result of a long back and forth between the Commission and the Council.

The Council wanted to have guarantees that the Commission would inform them well in advance if there were any developments regarding breaches of either the TCA or WA so that Member States can act accordingly. The Commission ensured that it could not give greater guarantees than the language used in the Regulation.

In the end, to avoid a statement, the Commission agreed to add one line in the next COREPER meeting explaining that “situations” in Recital 5b means “ongoing developments”.

We are sending a strong message to the UK that the EU stands ready to rapidly protect its citizens and Single Market in case of breaches of both the TCA and the WA, including the NI Protocol, with this new effective tool.

In terms of **timeline and next steps**: the file will be voted in committee on 25 January during an extraordinary joint INTA/AFCO/AFET committee meeting.

The file should then go to plenary probably during the second plenary session of February – this will depend when Parliament receives the letter from the Council giving its green light.