

12.1.2021

A9-0133/ 001-023

## **AMENDMENTS 001-023**

by the Committee on International Trade

### **Report**

**Marie-Pierre Vedrenne**

**A9-0133/2020**

Exercise of the Union's rights for the application and enforcement of international trade rules

Proposal for a regulation (COM(2019)0623 – C9-0197/2019 – 2019/0273(COD))

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### **Amendment 1**

#### **Proposal for a regulation**

##### **Citation 1 a (new)**

*Text proposed by the Commission*

*Amendment*

- *having regard to opinion 2/15 of the European Court of Justice,*

### **Amendment 2**

#### **Proposal for a regulation**

##### **Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*(1a) Opinion 2/15 of the Court of Justice of the European Union<sup>1a</sup> provided clarity regarding the question of competences covered by comprehensive trade agreements. That opinion clarifies, inter alia, that provisions covered by Trade and Sustainable Development chapters fall within the exclusive competence of the Union and that the goal of sustainable development forms an integral part of the common commercial policy.*

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### **Amendment 3**

#### **Proposal for a regulation**

##### **Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) The Regulation should ensure the coherent application of the enforcement mechanism in trade disputes relating to international trade agreements, including regional or bilateral agreements. Dispute settlement provisions, including in regional or bilateral trade agreements, might not be sufficiently specific or explicit enough to effectively resolve disputes in the event of a clear breach of obligations of trade agreements. A full impact assessment should accompany the Commission's future legislative proposal to review Regulation (EU) No 654/2014. The Commission should make proposals to strengthen the enforcement of sustainable development commitments.***

### **Amendment 4**

#### **Proposal for a regulation**

##### **Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) The Union insists on the primacy of international trade law, as administered by the WTO and enforced under Article 23 of the WTO Agreement, and will cooperate in all endeavours aiming to reform the WTO Dispute Settlement Mechanism in order to ensure the appropriate functioning of the WTO's Appellate Body.***

### **Amendment 5**

#### **Proposal for a regulation**

#### **Recital 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) By ... [one year following the entry into force of this Regulation], the Commission should report to the European Parliament and to the Council about ongoing developments in the area of international trade dispute settlements and the actions it has taken relating to the reform of the Appellate Body of the WTO.***

#### **Amendment 6**

**Proposal for a regulation**

**Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) The Union remains committed to a multilateral approach to international dispute settlement, rules-based trade, and international cooperation to achieve the United Nation's Sustainable Development Goals.***

#### **Amendment 7**

**Proposal for a regulation**

**Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***(7a) Services and intellectual property rights account for a large and growing share of world trade and are covered by international trade agreements, including regional or bilateral Union agreements. Services and intellectual property rights should therefore be included in the scope of the trade policy measures available to the Union which are currently limited to goods and public procurement. Extending the scope of those measures in that way should make Regulation (EU) No 654/2014 more consistent and effective.***

### *Justification*

*Currently, Regulation (EU) No 654/2014 is limited to the taking of certain measures in the fields of goods and public procurement.*

*No action can be taken in other areas, such as services and intellectual property.*

### **Amendment 8**

#### **Proposal for a regulation**

#### **Recital 7 b (new)**

*Text proposed by the Commission*

*Amendment*

***(7b) Given the mounting tension in international trade and in the context of the crisis facing the WTO, the Union should be able to react swiftly in the event of a unilateral, illegal measure taken against it. The Union should, therefore, be able to impose measures in the event of a clear breach of international law or a clear violation of trade obligations towards the Union by a third country, which threatens or impairs the Union's commercial interests or jeopardises the Union's strategic autonomy, provided that the Union has appropriately challenged those illegal measures at the WTO or in front of the relevant dispute settlement body.***

### *Justification*

*The aim is to strengthen the European Union's capacity to react in the event of illegal measures being taken against it. This would strengthen the deterrent effect of the Regulation, ensuring an immediate response by the EU and safeguarding its interests. It is nevertheless important to remember that measures should be proportionate and taken only as a last resort.*

### **Amendment 9**

#### **Proposal for a regulation**

#### **Recital 9**

*Text proposed by the Commission*

*Amendment*

***(9) Finally, the review clause of Regulation (EU) No 654/2014 should **be renewed for another five-year period and*****

***(9) Finally, the review clause of Regulation (EU) No 654/2014 should **also** cover the application of the proposed***

*should* cover the application of the amendment.  
proposed amendment.

*Justification*

*The date of 1 March 2025 proposed by the Commission is too far in the future. The review of the Regulation must take place earlier, during the European Parliament's current parliamentary term, in order to ascertain the results of its implementation and identify the adjustments that need to be made.*

**Amendment 10**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point -1 (new)**

Regulation (EU) No 654/2014

Article 1 – paragraph 1 – point b

*Present text*

(b) rebalancing concessions or other obligations in the trade relations with third countries, when the treatment accorded to goods from the Union is altered in a way that affects the Union's interests.

*Amendment*

***(-1) in Article 1, point (b) is replaced by the following:***

(b) rebalancing concessions or other obligations in the trade relations with third countries, when the treatment accorded to goods ***or services*** from the Union is altered in a way that affects the Union's interests.

*Justification*

*It should be noted that the treatment of services may also be altered.*

**Amendment 11**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point -1 a (new)**

Regulation (EU) No 654/2014

Article 2 – paragraph 1 – point b

*Present text*

(b) "concessions or other obligations" means tariff concessions or any other benefits that the Union has committed

*Amendment*

***(-1a) in Article 2, point (b) is replaced by the following:***

(b) "concessions or other obligations" means tariff concessions, ***commitments in the field of services, obligations***

itself to applying in its trade with third countries by virtue of international trade agreements to which it is a party;

***concerning trade-related aspects of intellectual property rights***, or any other benefits that the Union has committed itself to applying in its trade with third countries by virtue of international trade agreements to which it is a party;

#### *Justification*

*The inclusion of services and intellectual property rights in the list of trade policy measures available to the Union will strengthen the credibility and deterrent effect of the Regulation. The definition should therefore be changed accordingly.*

### **Amendment 12**

#### **Proposal for a regulation**

##### **Article 1 – paragraph 1 – point 1 – point b**

Regulation (EU) No 654/2014

Article 3 – paragraph 1 – point bb

#### *Text proposed by the Commission*

“(bb) in trade disputes relating to other international trade agreements, including regional or bilateral agreements, if adjudication is not possible because the third country is not taking the steps that are necessary for a dispute settlement procedure to function;”

#### *Amendment*

“(bb) in trade disputes relating to other international trade agreements, including regional or bilateral agreements, if adjudication is not possible because the third country is ***delaying the proceedings or is*** not taking the steps that are necessary for a dispute settlement procedure to function;”

### **Amendment 13**

#### **Proposal for a regulation**

##### **Article 1 – paragraph 1 – point 1 a (new)**

Regulation (EU) No 654/2014

Article 3 – paragraph 1 – point d

#### *Present text*

(d) in cases of modification of concessions by a WTO member under Article XXVIII of the GATT 1994, where no compensatory adjustments have been agreed.

#### *Amendment*

***(1a) in Article 3, point (d) is replaced by the following:***

(d) in cases of modification of concessions ***or commitments*** by a WTO member under Article XXVIII of the GATT 1994 ***or Article XXI of the GATS***, where no compensatory adjustments have

been agreed.

*Justification*

*It should be noted that modifications of concessions or commitments may also take place in the area of services.*

**Amendment 14**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 1 b (new)**

Regulation (EU) No 654/2014

Article 3 – paragraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(1b) in Article 3, the following point is added:***

***(da) in the event of the adoption by a third country of commercial policy measures that threaten or impair the commercial interests of the Union or jeopardise the Union's strategic autonomy, and constitute a clear breach of international law or a clear violation of its trade obligations towards the Union, provided that the Union has appropriately challenged these measures at the WTO or in front of the relevant dispute settlement body.***

*Justification*

*The EU must strengthen its tools with the aim of responding to any unilateral and illegal measure taken against it by a third country which is prejudicial to its commercial interests. The EU must be able to impose the trade policy measures provided for in Article 5 in the event of a clear breach of the rules of international law by a third country directed against it. These measures shall be temporary and consist in preserving the rights of the Union.*

**Amendment 15**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2**

Regulation (EU) No 654/2014

Article 4 – paragraph 2 – point bb

*Text proposed by the Commission*

*Amendment*

(bb) where measures are taken to restrict

(bb) where measures are taken to restrict

the trade with a third country in situations under Article 3(aa) **or** Article 3(bb), such measures shall be commensurate to the nullification or impairment of the Union's commercial interests caused by the measures of that third country;"

the trade with a third country in situations under Article 3(aa), Article 3(bb) **or Article 3(e)**, such measures shall be commensurate to the nullification or impairment of the Union's commercial interests caused by the measures of that third country **and, to the extent possible, provide relief to the Union sectors affected;**"

#### *Justification*

*The measures must be targeted and proportionate and should be used only as a last resort.*

### **Amendment 16**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 a (new)**

Regulation (EU) No 654/2014

Article 4 – paragraph 2 – point d

#### *Present text*

(d) where concessions are withdrawn in the trade with a third country in connection with Article XXVIII of the GATT 1994 and the related Understanding<sup>5</sup>, they shall be substantially equivalent to the concessions modified or withdrawn by that third country, in accordance with the terms established in Article XXVIII of the GATT 1994 and the related Understanding.

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<sup>5</sup> Understanding "Interpretation and Application of Article XXVIII".

#### *Amendment*

**(2a) in Article 4, paragraph 2, point (d) is replaced by the following:**

(d) where concessions **or commitments** are **modified or** withdrawn in the trade with a third country in connection with Article XXVIII of the GATT 1994 and the related Understanding<sup>5</sup>, **or Article XXI of the GATS and the related implementing procedures**, they shall be substantially equivalent to the concessions **or commitments** modified or withdrawn by that third country, in accordance with the terms established in Article XXVIII of the GATT 1994 and the related Understanding **or Article XXI of the GATS and the related implementing procedures**.

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<sup>5</sup> Understanding "Interpretation and Application of Article XXVIII".

#### *Justification*

*It should be noted that modifications of concessions or commitments may also take place in the field of services.*



## **Amendment 17**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 b (new)**

Regulation (EU) No 654/2014

Article 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(2b) the following article shall be inserted :**

#### **Article 4a**

***Request by the European Parliament and/or the Council***

- 1. The European Parliament and/or the Council may ask the Commission to adopt or take appropriate steps to adopt the implementing acts referred to in Article 4.***
- 2. If the European Parliament and/or the Council decides to make use of the possibility referred to in paragraph 1, it shall supply the Commission with any evidence of cases as referred to in Article 3 that nullifies or impairs the commercial interests of the Union.***
- 3. After receiving a request, the Commission shall inform the European Parliament and the Council without delay of how it intends to follow up on the request.***

## **Amendment 18**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 c (new)**

Regulation (EU) No 654/2014

Article 5 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(2c) in Article 5(1), the following point is inserted:**

**(ba) the suspension of commitments or**

*other obligations in the field of services;*

*Justification*

*The inclusion of services in the list of trade policy measures available to the Union will enhance the credibility and the deterrent effect of the regulation.*

**Amendment 19**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 d (new)**

Regulation (EU) No 654/2014

Article 5 – paragraph 1 – point b b (new)

*Text proposed by the Commission*

*Amendment*

***(2d) in Article 5(1), the following point is inserted:***

***(bb) the suspension of obligations regarding trade-related aspects of intellectual property rights;***

*Justification*

*The inclusion of intellectual property rights in the list of trade policy measures available to the Union will enhance the credibility and deterrent effect of the Regulation.*

**Amendment 20**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 e (new)**

Regulation (EU) No 654/2014

Article 7 – paragraph 2 – subparagraph 1 – point c

*Present text*

*Amendment*

***(2e) in the first subparagraph of Article 7(2), point (c) is replaced by the following:***

(c) in cases of modification of concessions by a WTO member under Article XXVIII of the GATT 1994, when the third country concerned accords adequate and proportionate compensation to the Union after the adoption of an implementing act under Article 4(1).

(c) in cases of ***the withdrawal or*** modification of concessions ***or commitments*** by a WTO member under Article XXVIII of the GATT 1994 ***or Article XXI of the GATS***, when the third country concerned accords adequate and proportionate compensation to the Union after the adoption of an implementing act

under Article 4(1).

*Justification*

*It should be noted that modifications of concessions or commitments may also take place in the field of services.*

**Amendment 21**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 f (new)**

Regulation (EU) No 654/2014

Article 9 – paragraph 1

*Present text*

1. The Commission shall seek information and views regarding the Union's economic interests in specific goods or services or in specific sectors, in the application of this Regulation, through a notice in the Official Journal of the European Union or through other suitable public communication means, indicating the period within which input is to be submitted. The Commission shall take the input received into account.

*Amendment*

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

1. The Commission shall seek information and views regarding the Union's economic interests in specific goods or services or in specific sectors, ***or as regards intellectual property rights***, in the application of this Regulation, through a notice in the Official Journal of the European Union or through other suitable public communication means, indicating the period within which input is to be submitted. The Commission shall take the input received into account.

*Justification*

Information must also be sought relating to intellectual property rights.

**Amendment 22**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 3 – point a**

Regulation (EU) No 654/2014

Article 10 – paragraph 1

*Text proposed by the Commission*

***By 1 March 2025 at the latest***, the Commission shall review the scope of this Regulation, taking into account in particular ***the amendments to the scope***

*Amendment*

***At the earliest possible opportunity after ... [the date of entry into force of this amending regulation], but no later than two years after that date***, the Commission

*having effect from [date of entry into force of this amending Regulation], the commercial policy measures that may be adopted, as well as its implementation, and shall report its findings to the European Parliament and the Council.*

shall review the scope of this Regulation, taking into account in particular the commercial policy measures that may be adopted, as well as its implementation, and shall report its findings to the European Parliament and the Council. ***That review shall include proposals to strengthen the enforcement of sustainable development commitments.***

#### *Justification*

*The date for the review proposed by the Commission lies too far in the future. It must be possible to review the Regulation earlier, during the European Parliament's current parliamentary term.*

### **Amendment 23**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 3 – point b**

Regulation (EU) No 654/2014

Article 10 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(b) paragraph 2 is amended as follows:***

***deleted***

***(i) in the first subparagraph of paragraph 2 the first sentence is replaced by the following: “In acting pursuant to paragraph 1, the Commission shall undertake a review aimed at envisaging under this Regulation additional commercial policy measures suspending concessions or other obligations in the field of trade in services”.***

***(ii) The second sub-paragraph is deleted.***

#### *Justification*

*This paragraph is no longer necessary since the scope of trade policy measures has been widened by the amendments to the Regulation.*