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PROPOSAL

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

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EUROPEAN COMMISSION

Brussels, 9.8.2012
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union

EXPLANATORY MEMORANDUM

In the context of its accession to the World Trade Organization (WTO), the Russian Federation has agreed to reduce its currently applied export duty rates on raw wood products. For certain types of wood, namely some coniferous wood species (i.e. spruce and pine), Russia has agreed to open tariff-rate quotas for exports of those products and allocate a specific quota share to the European Union (EU). Export duty rates within the tariff-rate quotas will be applied at a significantly reduced level (i.e. 13% for spruce and 15% for pine, as opposed to an unbound current out-quota export duty rate of 25%, but not less than 15 €/m³). These specific commitments of the Russian Federation have been included in its WTO Schedule of Concessions as Annex to Part V of the Schedule.

A bilateral agreement in the form of an Exchange of Letters (hereinafter referred to as the "Agreement") establishes general provisions on the implementation of the specific quota shares allocated to the EU. In particular, the Agreement provides that quantities of the EU share of the tariff-rate quotas shall be managed by the EU, and that the Russian Federation shall issue export licences based on the relevant import documentation issued by the EU.

The Agreement also provides for the elaboration by the EU and the Russian Federation of more detailed technical modalities on the management of the tariff-rate quotas by the entry into force of the Agreement. Such technical modalities are contained in a Protocol, negotiated between the EU and the Government of the Russian Federation (hereinafter referred to as the "Protocol"). The Protocol establishes the rules regarding the management of the export tariff-rate quotas and of exports within those quotas, including provisions on the cooperation of the competent authorities of the European Union and the Government of the Russian Federation necessary to ensure the adequate operation of the system.

The EU has a strong interest in the tariff-rate quotas which provide for significant advantages for exports of wood from Russia, with in-quota duties significantly reduced as compared to (unbound) out-quota duties. In particular, EU forest industries and downstream users such as the paper, construction and furniture industries have suffered from consecutive increases of wood export duties applied by the Russian Federation since 2007. Economic operators in the EU are now eager to access those raw materials at significantly improved conditions, and it is essentially in their interest that the tariff-rate quotas have been set.

In order to ensure the effective application of the management system provided for in the Agreement and the Protocol by the time of the accession of the Russian Federation to the WTO, both the Agreement and the Protocol will be applied provisionally from the date of the Russian Federation's accession to the WTO. Article 3 of Council Decision 2012/105/EU of 14 December 2011 on the signing, on behalf of the European Union, and provisional application of the Agreement and the Protocol, confirms the provisional application of both the Agreement and the Protocol pending the completion of the procedures for the conclusion of the Agreement.

The Commission should be empowered to adopt the necessary provisions for the management of the quantities of the tariff-rate quotas allocated to exports to the EU by means of an implementing act. Article 4 of Council Decision 2012/105/EU of 14 December 2011 on the signing, on behalf of the European Union, and provisional application of the Agreement and the Protocol, authorized the Commission to adopt detailed rules on the method of allocation of quota authorisations pursuant to Article 5, paragraph 2 of the Protocol, and any other

provisions necessary for the management by the European Union of the quantities of the tariff-rate quotas allocated to exports to the European Union. On this basis, Commission Implementing Regulation (EU) No 498/2012 of 12 June 2012 has established the necessary provisional implementing rules with a view to enabling a fully operational EU management of its share of the tariff-rate quotas by the time when the Russian Federation joins the WTO. However, Commission Implementing Regulation (EU) No 498/2012 will cease to apply on the date on which the Protocol ceases to be applied provisionally (cf. Article 20(2) of Commission Implementing Regulation (EU) No 498/2012). The Commission should therefore be empowered, by means of a regulation of the European Parliament and of the Council adopted under the ordinary legislative procedure, to adopt the necessary definitive implementing provisions.

In order to enable a smooth operational management by the EU of its share of the tariff-rate quotas by the time when the Russian Federation joins the WTO, Chapter 7 of Commission Implementing Regulation (EU) No 498/2012 has established provisions related to certain preparatory steps which need to be taken immediately after entry into force of the provisional Implementing Regulation. These preparatory measures are required for the calculation of maximum import amounts (so called "ceilings") for those companies which can claim status of "traditional" importer during the first three quota periods of application of the Agreement and the Protocol (cf. Article 5(4) of the Protocol).

The legal effects of the preparatory measures taken under Commission Implementing Regulation (EU) No 498/2012 should, therefore, be maintained by the new implementing regulation to be adopted by the Commission in order to ensure legal certainty and continuity for economic operators.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union

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 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 procedure¹,

Whereas:

- (1) Considering the economic importance for the European Union of imports of raw wood and the importance that the Russian Federation has for the Union as a supplier of raw wood, the Commission has negotiated with the Russian Federation commitments by the Russian Federation to reduce or eliminate its currently applied export duties on raw wood.
- (2) These commitments, which will become part of the World Trade Organization (WTO) Schedule of Concessions of the Russian Federation upon its accession to the WTO, include tariff-rate quotas for the export of specified types of coniferous wood, a share of which has been allocated for exports to the Union.
- (3) In the context of the negotiations regarding the accession of the Russian Federation to the WTO, the Commission has negotiated, on behalf of the Union, with the Russian Federation, an Agreement in the form of an Exchange of Letters relating to the administration of those tariff-rate quotas applying to exports of certain coniferous wood from the Russian Federation to the Union² (hereinafter referred to as "the Agreement").

¹ Position of the European Parliament of [XXX] and Decision of the Council of [XXX].

² OJ L 57, 29.2.2012, p. 3.

- (4) As provided for in the Agreement, the Union and the Russian Federation have also negotiated detailed technical modalities on the management of the tariff-rate quotas, which are contained in an agreement in the form of a Protocol negotiated between the Union and the Government of the Russian Federation³ (hereinafter referred to as "the Protocol").
- (5) On 14 December 2011 the Council adopted Decision 2012/105/EU⁴ authorizing the signing of the Agreement and the Protocol and their provisional application from the date of accession of the Russian Federation to the WTO. The Agreement and the Protocol were signed on 16 December 2011.
- (6) In accordance with the stipulations of the Agreement, the Union shall manage the share of tariff-rate quotas allocated to it through its internal procedures. Decision 2012/105/EU lays down that the Commission is to adopt detailed rules on the method of allocation of quota authorisations pursuant to the Protocol, and any other provisions necessary for the management by the Union of the quantities of the tariff-quotas allocated to exports to the Union. Commission Implementing Regulation (EU) No 498/2012 of 12 June 2012 on the allocation of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union⁵ has established the necessary provisional implementing rules with a view to enabling a fully operational Union management of its share of the tariff-rate quotas by the time when the Russian Federation joins the WTO. That Regulation will cease to apply once the Agreement and the Protocol are concluded and enter into force.
- (7) In order to ensure uniform conditions for the implementation of the Agreement and the Protocol following their entry into force, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁶.
- (8) The examination procedure should be used for the adoption of implementing acts setting out rules on the method of allocation of quota authorisations and any other provisions necessary for the management by the Union of the quantities of the tariff-quotas allocated to exports to the Union in implementation of the Agreement and the Protocol, given that those acts are acts relating to the common commercial policy and therefore fall under point (iv) of Article 2(2)(b) of Regulation (EU) No 182/2011.
- (9) In order to ensure legal certainty and continuity for economic operators the legal effects of the preparatory measures already taken under Implementing Regulation (EU) No 498/2012 should be maintained by the new implementing acts to be adopted pursuant to this Regulation, as if those preparatory measures had been taken under the corresponding provision of those new implementing acts.

³ OJ L 57, 29.2.2012, p. 5.

⁴ OJ L 57, 29.2.2012, p. 1.

⁵ OJ L 152, 13.6.2012, p. 28.

⁶ OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

Article 1

1. In implementing the Agreement between the European Union and the Russian Federation relating to the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the Union and the Protocol on technical modalities pursuant to that Agreement, the Commission shall adopt detailed rules on the method of allocation of quota authorisations pursuant to paragraph 2 of Article 5 of the Protocol, and any other provisions necessary for the management by the Union of the quantities of the tariff-rate quotas allocated to exports to the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 2.
2. The implementing acts referred to in paragraph 1 shall maintain the legal effects of the preparatory measures taken pursuant to Implementing Regulation (EU) No 498/2012.

Article 2

The Commission shall be assisted by the Wood Committee established by Article 5 of Decision 2012/105/EU. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. The Wood Committee may examine any matter relating to the application of the Agreement and the Protocol raised by the Commission or on the request of a Member State.

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

Article 3

This Regulation shall enter into force on the day 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