



EUROPEAN  
COMMISSION

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2025/0150 (NLE)

Proposal for a

## **COUNCIL DECISION**

**establishing the position to be taken on behalf of the European Union in the Partnership Council established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards decision No 1/2025 of the Partnership Council**

## **EXPLANATORY MEMORANDUM**

### **1. SUBJECT MATTER OF THE PROPOSAL**

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Partnership Council established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, ('the Agreement', or 'the Trade and Cooperation Agreement'). The position relates to the interpretation of Article 508(2)(d) of that Agreement.

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The EU-UK Trade and Cooperation Agreement**

The Trade and Cooperation Agreement was signed on 30 December 2020, applied provisionally since 1 January 2021 and entered into force on 1 May 2021. It establishes the basis for a broad relationship between the Union and the United Kingdom involving reciprocal rights and obligations, common actions and special procedures.

#### **2.2. The Partnership Council**

Article 7(1) of the Trade and Cooperation Agreement establishes the Partnership Council.

Pursuant to Article 519(b) of the Agreement, the Partnership Council may adopt decisions to issue interpretations of the provisions of Part Two of the Agreement.

#### **2.3. The envisaged act of the Partnership Council**

In accordance with Article 519(b) of the Trade and Cooperation Agreement, the Partnership Council is to adopt at its next meeting or by written procedure a decision interpreting a provision of Part Two of the Agreement, namely Article 508(2)(d) of the Agreement.

### **3. POSITION TO BE TAKEN ON THE UNION'S BEHALF**

The position to be taken on the Union's behalf is to endorse the adoption by the Partnership Council of a decision interpreting Article 508(2)(d) of the Trade and Cooperation Agreement. The position should be that the term "cooperation on sustainable fisheries management" in Article 508(2)(d) of the Agreement shall be interpreted, solely for the purpose of that provision, as including the adopting of a decision by the Specialised Committee on Fisheries to provide for multiannual full access to waters to fish for a specified time period which is to be considered for the purposes of Article 500(1) and (4) of the Agreement as the agreed outcome of annual consultations (including in the case of access under Article 500(5) of the Agreement in the event that provisional TACs are set under Article 499 of the Agreement).

### **4. LEGAL BASIS**

#### **4.1. Procedural legal basis**

##### *4.1.1. Principles*

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for Council decisions establishing "*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.*"

#### *4.1.2. Application to the present case*

The Partnership Council is a body set up by an agreement, namely the Trade and Cooperation Agreement.

The decision, which the Partnership Council is called upon to adopt in accordance with Article 519(b) of the Agreement, constitutes an act having legal effects, within the meaning of Article 218(9) of the TFEU. The decision will be binding on the Parties in accordance with Article 10(1) of the Agreement.

The decision does not supplement or amend the institutional framework of the Trade and Cooperation Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) of the TFEU.

### **4.2. Substantive legal basis**

#### *4.2.1. Principles*

The substantive legal basis for a decision under Article 218(9) of the TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) of the TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(9) of the TFEU will have to include, exceptionally, the various corresponding legal bases.

#### *4.2.2. Application to the present case*

The objective and the content of the envisaged act relate to fisheries. Therefore, the substantive legal basis of the proposed decision is Article 43(2) of the TFEU.

### **4.3. Conclusion**

The legal basis of the proposed decision should be Article 43(2) of the TFEU, in conjunction with 218(9) of the TFEU.

## **5. PUBLICATION OF THE ENVISAGED ACT**

As the purpose of the decision of the Partnership Council is to interpret a provision of the Trade and Cooperation Agreement, in the interest of legal certainty and transparency, it is appropriate to publish the decision of the Partnership Council in the Official Journal of the European Union after its adoption.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Trade and Cooperation Agreement' or 'the Agreement') was concluded by the Union by means of Council Decision (EU) 2021/689<sup>1</sup> and entered into force on 1 May 2021, having been provisionally applied since 1 January 2021.
- (2) Pursuant to Article 519(b) of the Trade and Cooperation Agreement, the Partnership Council established under the Agreement may adopt decisions to issue interpretations of the provisions of Part Two of the Agreement.
- (3) Article 508(2)(d) of the Trade and Cooperation Agreement provides that the Specialised Committee on Fisheries established under the Agreement may adopt measures, including decisions and recommendations, in relation to any other aspect of cooperation on sustainable fisheries management under Heading Five of Part Two of the Agreement.
- (4) The Partnership Council is to adopt at its next meeting or by written procedure a decision interpreting Article 508(2)(d) of the Trade and Cooperation Agreement.
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Partnership Council as regards the interpretation of Article 508(2)(d) of the Trade and Cooperation Agreement.

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<sup>1</sup> Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information ([OJ L 149, 30.4.2021, p. 2](#)).

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf in the Partnership Council established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards the interpretation of Article 508(2)(d) of that Agreement shall be based on the draft decision of the Partnership Council attached to this Decision.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council  
The President*