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2025/0151 (NLE)

Proposal for a

## **COUNCIL DECISION**

**establishing the position to be taken on behalf of the European Union in a Specialised Committee 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 a decision of that Specialised Committee**

## **EXPLANATORY MEMORANDUM**

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

This proposal concerns a decision establishing the position to be taken on the Union's behalf in the Specialised Committee on Fisheries established by Article 8(1)(q) 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 ('the Trade and Cooperation Agreement' or 'the Agreement'). The position relates to the arrangements on the level and conditions of access granted by each Party to vessels of the other Party to fish in its waters, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the 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 Specialised Committee on Fisheries**

Article 8(1)(q) of the Trade and Cooperation Agreement establishes a Specialised Committee on Fisheries.

Pursuant to Article 508(2)(d) of the Agreement, the Specialised Committee on Fisheries may adopt measures, including decisions and recommendations in relation to any other aspect of cooperation on sustainable fisheries management under Heading Five "Fisheries" of the Agreement.

#### **2.3. The envisaged act of the Specialised Committee on Fisheries**

In accordance with Article 508(2)(d) of the Agreement, the Specialised Committee on Fisheries is to adopt at its next meeting or by written procedure a Decision setting out the arrangements on the level and conditions of access granted by each Party to vessels of the other Party to fish in its waters from 1 July 2026 to 30 June 2038, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the Agreement.

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

The proposed action relates to the arrangements on the level and conditions of access granted by the Union and the United Kingdom to vessels of the other Party to fish in its waters, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the Agreement for the period from 1 July 2026 to 30 June 2038 unless the Specialised Committee on Fisheries adopts a decision to extend it.

The Union and the United Kingdom should jointly agree that:

- (1) Provided that TACs have been agreed, each Party shall grant:
  - (a) full access to fish the stocks listed in Annex 35 and tables A, B and F of Annex 36 of the Agreement in each other's EEZ and in the waters of the Parties between six and

twelve nautical miles from the baselines in ICES divisions 4c and 7d-g at a level that is reasonably commensurate with the Parties' respective shares of the TACs;

- (b) full access to fish the non-quota stocks in each other's EEZ and in the waters of the Parties between six and twelve nautical miles from the baselines in ICES divisions 4c and 7d-g at a level that at least equates to the average tonnage fished by that Party in the waters of the other Party during the period 2012-2016.

For the purposes of subpoints a) and b), full access to fish between six and twelve nautical miles from the baselines in ICES divisions 4c and 7d-g applies for qualifying vessels to the extent that each Party's qualifying vessels had access to those waters on 31 December 2020. "Qualifying vessel" shall have the same meaning as "qualifying vessel" in Article 500(4) as defined for the purposes of Article 500(4)(c).

- (2) The access set out in subpoint (a) of point 1) shall also be granted where a stock listed in Annex 35 or in tables A and B of Annex 36 remains without an agreed TAC on 20 December of any given year and each Party has set a provisional TAC, pursuant to Article 499 of the Agreement. The same shall apply, *mutatis mutandis*, to the access set out in subpoint (b) of point 1) to fish non-quota stocks.
- (3) The arrangements set out in points 1 and 2 shall not include financial commitments and quota transfers between the Parties.
- (4) The respective shares of the Parties set out in Annexes 35, 36 and 37 of the Trade and Cooperation Agreement are not affected by this Decision
- (5) The decision of the Specialised Committee on Fisheries should apply from 1 July 2026 and should cease to apply on 30 June 2038 unless the Specialised Committee on Fisheries adopts a decision to extend it.

The position to be taken on the Union's behalf is to endorse the adoption by the Specialised Committee on Fisheries of a decision based on Article 508(2)(d) of the Trade and Cooperation Agreement laying down the above-mentioned arrangements.

## **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 Specialised Committee on Fisheries is a body set up by an agreement, namely the Trade and Cooperation Agreement.

The decision, which the Specialised Committee on Fisheries is called upon to adopt in accordance with Article 508(2)(d) 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.

##### *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 Article 218(9) of the TFEU.

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

The purpose of the decision of the Specialised Committee on Fisheries is to set out the arrangements on the level and conditions of access granted by each Party to vessels of the other Party to fish in its waters from 1 July 2026 to 30 June 2038, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the Agreement. In the interest of legal certainty and transparency, it is appropriate to publish the decision of the Specialised Committee on Fisheries in the Official Journal of the European Union after its adoption.

Proposal for a

## COUNCIL DECISION

**establishing the position to be taken on behalf of the European Union in a Specialised Committee 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 a decision of that Specialised Committee**

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) The adjustment period provided for Annex 38 to the Agreement, during which each Party grants full access to vessels of the other Party to its waters to fish, ends on 30 June 2026.
- (3) In accordance with Article 500(1) of the Agreement, which applies as of 1 July 2026, each Party is to grant access to vessels of the other Party to fish in its waters in the relevant ICES sub-areas for the relevant year at a level and on conditions determined in the annual consultations, provided that TACs have been agreed.
- (4) The Parties wish to set out arrangements concerning the level and conditions of access from 1 July 2026 to 30 June 2038, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the Agreement and providing full access to waters to fish during that period, including in the event of provisional TACs set pursuant to Article 499 of the Agreement.
- (5) Article 508(2)(d) of the Trade and Cooperation Agreement provides that the Specialised Committee on Fisheries may adopt measures, including decisions and

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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](#)).

recommendations, in relation to any other aspect of cooperation on sustainable fisheries management under Heading Five of Part Two of the Agreement.

- (6) Pursuant to Decision No 1/2025 of the Partnership Council dated [xxx] interpreting Article 508(2)(d) of the Trade and Cooperation Agreement, the term “cooperation on sustainable fisheries management” in Article 508(2)(d) of the Agreement shall be interpreted 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).
- (7) It is appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee on Fisheries on this matter.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the Union’s behalf in the Specialised Committee on Fisheries 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 arrangements on the level and conditions of access granted by each Party to vessels of the other Party to fish in its waters, which are to be considered as the level and conditions of access determined for the purposes of Article 500(1), (4) and (5) of the Agreement for the period from 1 July 2026 to 30 June 2038, shall be based on the draft Decision of the Specialised Committee on Fisheries 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*