



Department for  
Business, Energy  
& Industrial Strategy

# EU (Approvals) Bill

## Overview of the Bill

The purpose of the Bill is to approve four draft decisions of the Council of the European Union. This is to fulfil a requirement in section 8 of the European Union Act 2011, which requires Parliament to approve draft decisions made under Article 352 of the Treaty on the Functioning of the European Union (“TFEU”). Parliamentary approval will enable the United Kingdom to vote in favour of the draft decisions.

The first draft decision relates to the participation of the Republic of Albania as an observer in the work of the European Union Agency for Fundamental Rights.

The second draft decision relates to the participation of the Republic of Serbia as an observer in the work of the European Union Agency for Fundamental Rights.

The third and fourth draft decisions relate to the signing and conclusion of an Agreement between the European Union and the Government of Canada that will allow enhanced cooperation between the European Commission and the Canadian Competition Bureau on competition matters.

# Article 352 of the Treaty on the Functioning of the European Union (“TFEU”) Factsheet

## What is Article 352 TFEU?

Article 352 of the TFEU is a legal base for measures that are in line with the objectives set out in the Treaties, but for which the Treaties have not explicitly provided the necessary powers. It allows the EU to act where there is no specific applicable Treaty base. The measure must build on an area of existing EU competence.

Article 352 does not entail harmonisation of Member States’ laws or regulations where the Treaties exclude such harmonisation. Neither can it be used as a basis for attaining objectives linked to the Common Foreign and Security Policy.

Article 352, which is referred to as the “enabling clause”, requires the unanimous approval of the 28 EU Member States and the consent of the European Parliament before a measure can be adopted.

## How does the European Union agree Article 352 TFEU Decisions?

If the Council of the European Union (“the Council”) (composed of Government Ministers from the Member States) consider a measure is necessary to deliver an EU objective using Article 352 they will publish a “Proposal for a Council Decision” for EU Member States’ consideration. Member States must then consider it and decide if it is necessary. Once all EU Member States are in a position to vote on the decision, the European Council (Presidency) will schedule a meeting of the Council. Article 352 decisions require unanimity and so all EU Member States’ Ministers must vote in favour in order for the decision to be adopted into EU law. [NB: the Council decisions that are the subject of this EU (Approvals) Bill will go to different Council meetings as they are on different subjects.]

## Section 8 of the European Union Act 2011

In accordance with Section 8 of the European Union Act 2011, a Minister may only vote in favour of an Article 352 decision in the Council of the European Union if the draft decision has been approved by an Act of Parliament. The Act must specify the decision(s) to be agreed.

The requirement for Parliament to approve Article 352 decisions under section 8 does not apply where urgent approval is required (section 8(4)) or where the draft decision relates to an exempt purpose (section 8(5)), as defined in section 8(6). Neither of these exemptions applies to these four proposals, so an Act of Parliament is needed before the UK Government may vote in favour of these decisions in the Council of the European Union.