

EXPLANATORY MEMORANDUM ON A UK/EU TRADE AND COOPERATION AGREEMENT GOVERNANCE DOCUMENT

COM (2024) 297 + Annex 1

Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Partnership Council regarding modifications to Annex 3 to 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.

Submitted by Cabinet Office, Thursday 14 November 2024

SUBJECT MATTER

1. The European Commission's proposal sought a Decision from the Council of the EU ('Council') on the position to be adopted on behalf of the EU in the Trade and Cooperation Agreement (TCA) Partnership Council. The proposal was for the Partnership Council to update the agreement in accordance with the amendments made to the Nomenclature governed by the Harmonized Commodity Description and Coding System ("HS") Convention¹ on 1 January 2022, by:
 - a. Updating the descriptions of the HS chapters, headings or subheadings and the product specific rules of origin contained in Annex 3 of the TCA, in order to reflect the HS 2022 adjustments (rather than HS 2017). This is in accordance with Articles 7 (4c) and 68 of the TCA, which provides that the Partnership Council can modify Annexes such as Annex 3.
2. These amendments do not introduce changes to the negotiated rules of origin but aligns the TCA with international best practice which dictates that 'product specific' rules of origin should be updated in line with the updates to the Harmonised System which take place every 5 years.

SCRUTINY HISTORY

This is the first time that we have written to the Lords European Affairs Committee on this Decision, though several previous Partnership Council Decisions have been subject to examination by the Committee.

MINISTERIAL RESPONSIBILITY

3. The Minister for the Constitution and European Union Relations is responsible for the UK-EU relationship and is Co-chair of the Partnership Council. The Chancellor of the Exchequer is responsible for the administration of import duties (tariffs).
4. The Secretary of State for Business and Trade has overall responsibility for trade. The Secretary of State for the Department for Environment, Food and Rural Affairs is responsible for the regulation of animal products.

¹ World Customs Organization "International Convention on the Harmonized Commodity Description and Coding System", 1983.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

5. Chapter 2 "Rules of origin" of Title I "Trade in Goods" under Part 2 of the TCA, and its associated annexes, such as Annex 3, are reserved. Devolved administrations have nonetheless been consulted on the preparation of this explanatory memorandum and had no comments.
6. The devolved administrations are consulted regularly on the UK's approach to matters arising from the implementation of the TCA.

LEGAL AND PROCEDURAL ISSUES

- i. Legal Base: the European Union's legal basis for this decision is Article 2018(9) of the Treaty on the Functioning of the European Union (TFEU). The legal basis for amending Annex 3 of the TCA by the Partnership Council is Article 7(4c) and Article 68.
- ii. Voting procedure: the adoption of the proposal by the Council was on the basis of qualified majority voting.
- iii. Timetable for adoption and implementation: the Council formally adopted the Commission proposal on 23 September. Following this, the Partnership Council took a Decision by written procedure on 5 November to update the Product Specific Rules Annex to the Trade and Cooperation Agreement.

POLICY IMPLICATIONS

Amendments to the HS 2017 were made in 2022 and we have agreed with the EU to reflect these changes and to ensure the TCA remains up to date, as part of our internal obligations. These modifications do not therefore constitute substantive changes to the negotiated rules of origin within the TCA, and no policy implications arise as a result of this proposal.

CONSULTATION

7. No external consultation has been necessary on this matter.

FINANCIAL IMPLICATIONS

8. There are no financial implications for the UK.

MINISTERIAL NAME AND SIGNATURE



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