

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION/DOCUMENTS WITHIN THE SCOPE OF THE TRADE COOPERATION AGREEMENT

COM(2026) 89 final

TITLE: Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Level Playing Field (LPF) for Open and Fair Competition and Sustainable Development 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 adoption of a decision to establish a list of individuals who are willing and able to serve as members of the panel of experts established under Article 409 of the Trade and Cooperation Agreement.

Submitted by Cabinet Office, 24 March 2026.

SUBJECT MATTER

1. The Level Playing Field Panel of Experts arbitrates on disagreements relating to provisions on labour and social, environment, and climate standards in the Trade and Cooperation Agreement (Article 355(3), and chapters 6, 7 and 8 of the LPF Title). This can arise where one Party believes the other's standards are regressing in these areas in a manner affecting trade and investment between the Parties (Articles 387 and 391).
2. Where disputes relating to provisions on non-regression of labour and social, environment, and climate standards arise, the Trade and Cooperation Agreement stipulates that these must be arbitrated by a panel of three experts. The three panellists comprise a UK selection (who can be a UK national), an EU selection (who can be an EU Member State national) and a chairperson (who cannot be a national of either the UK or any EU Member State). To ensure expediency in the appointment of a panel when a dispute arises, the Trade and Cooperation Agreement obliges the Parties to compile a pre-agreed list of at least 15 individuals willing and qualified to serve as expert panellists.
3. As set out in Article 409 of the Trade and Cooperation Agreement, the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development was meant to establish the list by the first meeting of the Committee, in 2021. However, when it became clear that neither side would be ready to agree the list by this meeting, both Parties committed to doing so as soon as practicable, which is now.

SCRUTINY HISTORY

4. The Level Playing Field title has been subject to consistent parliamentary oversight, including the submission of Explanatory Memoranda on TCA implementation and ministerial correspondence to both the House of Commons European Scrutiny

Committee and the House of Lords European Affairs Committee. This scrutiny has focused on the practical application of non-regression commitments and the mechanics of the rebalancing provisions within the TCA.

5. The establishment of the panel of experts operates similarly to that of the establishment of an arbitration tribunal for the Horizontal Dispute Resolution under the Trade and Cooperation Agreement. Both require the appointment of a pre-agreed list of individuals willing to serve on a panel. The agreed list of arbitrators for the main dispute resolution mechanism is available [here](#). The 2022 Partnership Council decision was scrutinised by the European Union Select Committee in 2021.

MINISTERIAL RESPONSIBILITY

6. The Paymaster General and Minister for the Cabinet Office (Minister for the Constitution and European Union Relations) has central responsibility for relations with the European Union and is the UK co-chair of the Partnership Council, the highest governance board that oversees the Trade and Cooperation Agreement.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

7. The dispute resolution provisions under the Trade and Cooperation Agreement, including the expert panellist process that oversees disagreements around labour and social, environmental and climate standards, are reserved, but there could be disputes that impact the Devolved Governments directly or indirectly. With regard to expert panellist selection specifically, there is no role for the Devolved Governments.

LEGAL AND PROCEDURAL ISSUES

8. This proposal is being pursued under legal obligations contained in the Trade and Cooperation Agreement, specifically Title XI on the Level Playing Field for Open and Fair Competition and Sustainable Development.
9. Article 407 provides the basis for the creation of the panel. It provides that the Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement. Where consultation does not resolve the disagreement, the Parties will have recourse to dispute resolution, namely the establishment of a panel of three experts to examine the matter.
10. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development is required to establish a list of at least 15 individuals who are willing and able to serve as panellists. Each Party is required to name at least five individuals to the list to serve as panellists and at least five further individuals who are not nationals of either the UK or any EU Member State to serve as chairpersons of any panels.
11. To serve as a panellist, one must have specialised knowledge or expertise of labour or environmental law or in the resolution of disputes arising under international agreements. Panellists must serve in their individual capacity, without instruction from

or affiliation with any organisation or government in respect of the dispute, and must not be a member, official or other servant of either the UK or the EU (including EU Member States). They must also adhere to a code of conduct annexed to the TCA (Annex 49).

12. The EU requires the approval of the Council of the European Union to adopt this decision, as required by Article 218(9) TFEU. The legal basis is contained within the Treaty on the Functioning of the European Union (TFEU), which governs the areas in which dispute settlement procedures may arise. The decision is considered for the purposes of the TFEU as an 'act having legal effects'. The envisaged Act will be binding on the Parties in accordance with the Trade and Cooperation Agreement.
13. It is estimated that the EU will take up to two months for this proposal to be confirmed by the Council, empowering the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development to take a decision on the appointment of pre-selected panellists.
14. A joint decision establishing the list of panellists under will be considered and, if agreed, adopted by the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development via written procedure. The Government will publish the decision on [GOV.UK](https://www.gov.uk) and the EU will publish the decision in the Official Journal of the European Union after its adoption.

POLICY IMPLICATIONS

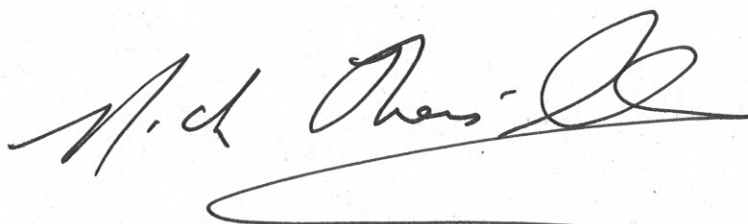
15. There are no policy implications. This is a procedural regulation that is required as part of dispute resolution mechanisms within the Trade and Cooperation Agreement. It is also a provisionary measure to expedite the formation of a panel of experts, in the event a dispute arises under the Level Playing Field provisions contained in Article 355, and relates to the content within chapters 6, 7 and 8 of the LPF Title.

CONSULTATION

16. No external consultation on this Commission proposal is required.

FINANCIAL IMPLICATIONS

17. None.



RT HON NICK THOMAS-SYMONDS MP
THE PAYMASTER GENERAL AND MINISTER FOR THE CABINET OFFICE
(MINISTER FOR THE CONSTITUTION AND EUROPEAN UNION RELATIONS)