

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

COM(2026) 295 Final

PROPOSAL FOR A COUNCIL DECISION AMENDING COUNCIL DECISION 2021/1875 OF 22 OCTOBER 2021 CONCERNING THE POSITION TO BE ADOPTED ON BEHALF OF THE UNION IN THE ANNUAL CONSULTATIONS WITH THE UNITED KINGDOM TO AGREE ON TOTAL ALLOWABLE CATCHES

Submitted by the Department for Environment, Food and Rural Affairs (Defra), 21 August 2026

SUBJECT MATTER

1. Following the UK's exit from the EU, the UK became an independent coastal State. The EU-UK Trade and Cooperation Agreement (TCA) entered into force on 1 May 2021 and includes fisheries provisions. Article 498 of the TCA establishes that the EU and UK must hold annual consultations to agree on total allowable catches (TACs) applicable to shared fishery stocks for the following year or years. TACs are an important fisheries management measure that limit the volume of fish that can be fished to help maintain the sustainability of stocks.
2. On 22 October 2021, the EU adopted Decision (EU) 2021/1875, which sets out the procedure, as well as the principles and orientations of the position to be adopted on behalf of the EU in the annual consultations with the UK. The decision authorises the European Commission to conduct those consultations on behalf of the EU and that the EU's position will be based on the best available scientific advice, the precautionary approach, and the objective of restoring and maintaining populations above levels capable of producing maximum sustainable yield. This is in line with the EU's Common Fisheries Policy.
3. Decision (EU) 2021/1875 only applies until 30 June 2027. Proposal COM(2026) 295 amends this decision to extend this to 31 December 2038. This follows a review undertaken by the EU in 2023 that did not identify any need for revision to the decision nor any implementation concerns.
4. The proposal makes no substantive change to the EU's policy position. Should the EU adopt this proposal, the EU's policy will remain consistent with UK legislation, enabling collaborative working between the UK and EU in managing shared stocks as per the TCA.

SCRUTINY HISTORY

5. There is no Parliamentary scrutiny history relevant to this Explanatory Memorandum.

MINISTERIAL RESPONSIBILITY

6. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

7. International fisheries negotiations is not a devolved matter, but the UK Government will continue to discuss matters where relevant with each of the DG. DGs have been consulted on the preparation of this explanatory memorandum and raised no concerns regarding the EU's proposal.

LEGAL AND PROCEDURAL ISSUES

- 8.

i. Legal Base

The EU's legal basis for this decision is Article 43(3) Treaty on the Functioning of the European Union (TFEU), in conjunction with Article 218(9) TFEU.

Procedural legal basis

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for 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.'

In line with Article 498 of the TCA, the EU and UK must consult on the joint management of certain shared fish stocks. These consultations, which happen annually, are needed for the parties to agree on fishing opportunities. The proposal discussed here does not supplement or amend the TCA.

The positions to be adopted on the EU's behalf by the European Commission in the annual consultations are adopted pursuant to Article 218(9) of the Treaty on the Functioning of the European Union TFEU. Decision (EU) 2021/1875 establishes the principles for the position to be taken by the EU during the annual consultations.

Substantive legal basis

The EU's substantive legal basis for the proposed decision is based on Article 43(3) TFEU.

ii. Voting procedure

The adoption of the Decision by the EU Council will be on the basis of qualified majority voting.

iii. Timetable for adoption and implementation

The Council decision will be adopted in due course.

POLICY AND LEGAL IMPLICATIONS

9. The UK Government's policy is for the continuation of the current structure of the annual consultations to agreed TACs with the EU. COM (2026) 295 is in alignment with the UK's position.

CONSULTATION

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

FINANCIAL IMPLICATIONS

11. There are no financial implications for the UK.



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