



EUROPEAN
COMMISSION

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2026/0315 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted on behalf of the European Union within the Specialised Committee on Social Security Coordination 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 amend Annex SSC-7 to the Protocol on Social Security Coordination

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

The Commission proposes that the Council establishes the position to be adopted on the Union's behalf in the Specialised Committee on Social Security Coordination 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 (the 'Trade and Cooperation Agreement')¹ on the adoption of a decision of this Specialised Committee to amend Annex SSC-7 to the Protocol on Social Security Coordination to the Trade and Cooperation Agreement (the 'Protocol').

2. CONTEXT OF THE PROPOSAL

2.1. 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 establishes the basis for a broad relationship between the European Union and the United Kingdom and includes provisions on the coordination of social security systems between the European Union and the United Kingdom. It entered into force on 1 May 2021, having been provisionally applied since 1 January 2021.

2.2. The Specialised Committee on Social Security Coordination

The Specialised Committee on Social Security Coordination ('the Specialised Committee') is established under Article 8(1)(p) of the Trade and Cooperation Agreement. Annex 1 to the Trade and Cooperation Agreement lays down the rules of procedure of the Specialised Committees. The tasks of the Specialised Committee are laid down in Article 8(4) of the Agreement and include:

- Monitoring the implementation and ensuring the proper implementation of the Agreement,
- Adopting decisions and recommendations, including amendments to the Agreement in the cases provided therein,
- Discussing technical issues arising from the implementation of the Agreement.

In accordance with Article 8(5) of the Trade and Cooperation Agreement, the Specialised Committee comprises representatives of the Union and of the United Kingdom. Pursuant to Article 10(2) of the Trade and Cooperation Agreement, it adopts decisions and makes recommendations by mutual consent.

2.3. The envisaged act of the Specialised Committee on Social Security Coordination

Pursuant to Article SSC.68 of the Protocol, the Specialised Committee may amend the Annexes and Appendices to the Protocol. The Specialised Committee is to adopt a decision regarding the amendment of Annex SSC-7 to the Protocol ('the envisaged act').

The purpose of the envisaged act is to amend Annex SSC-7 to insert a new Article SSCI.17a, to introduce the possibility for Member States and the United Kingdom to conclude agreements to derogate, only in a limited set of pre-defined situations in specific individual cases and in the interest of the persons concerned, from the rules on applicable legislation

¹ OJ L 149, 30.4.2021, p. 10.

pursuant to the Protocol. The envisaged act does not amend the essential elements of the Protocol.

The envisaged act will become binding on the Parties in accordance with Article 10(1) of the Trade and Cooperation Agreement, which provides: *“The decisions adopted by the Partnership Council, or, as the case may be, by a Committee, shall be binding on the Parties and on all the bodies set up under this Agreement and under any supplementing agreement, including the arbitration tribunal referred to in Title I of Part Six. [...]”*. In accordance with Rule 9(3) of Annex 1 on Rules of procedure of the Partnership Council and Committees, decisions adopted by the Specialised Committee will specify the date on which they take effect.

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

3.1. Annex SSC-7 to the Protocol on social security coordination

Annex SSC-7 ('Implementing Part') to the Protocol on Social Security Coordination lays down the procedure for implementing the Protocol. It is proposed to amend Annex SSC-7 to the Protocol on Social Security Coordination to introduce a new Article concerning the possibility for Member States and the United Kingdom to conclude agreements to derogate ('derogation agreements'), only in a limited set of pre-defined situations in specific individual cases and in the interest of the persons concerned, from the rules on applicable legislation pursuant to the Protocol. The possibility for such derogation agreements is to be introduced for a limited set of pre-defined situations only, namely:

- To exceed the maximum period of detachment established by the Protocol by up to twelve months in one of the following situations: in exceptional circumstances which could not have been anticipated at the beginning of the detachment; to avoid a change of applicable legislation that would have adverse effects on the pension rights of the person concerned; or in case of intra-corporate transfers of managers and specialists within the meaning of Article 141 of the Trade and Cooperation Agreement.
- To avoid a change of applicable legislation where it would have detrimental effects because of the health situation of the person concerned, or of a member of their family.
- Where the application of Articles SSC.10 to SSC.12 of the Protocol would, with regard to the individual situation of the person concerned, produce anomalous, unfair or unjust outcomes.
- To regularise, with regard to the individual situation of the person concerned, situations where the applicable legislation was incorrectly determined and where retroactive changes to the legislation applicable would be detrimental to the person or category of persons concerned.

4. LEGAL BASIS

4.1. Procedural legal basis

The Specialised Committee is a body set up by an agreement, namely the Trade and Cooperation Agreement.

The act which the Specialised Committee is called upon to adopt has legal effects, because it will produce legal effects under the Trade and Cooperation Agreement for the Union. The

envisaged act will be binding on the Union and the United Kingdom in accordance with Article 10 of the Trade and Cooperation Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

The main objective and content of the envisaged act relate to amending Annex SSC-7 to the Protocol on Social Security Coordination, in order to introduce the possibility for Member States and the United Kingdom to conclude agreements to derogate, only in a limited set of pre-defined situations in specific individual cases and in the interest of the persons concerned, from the rules on applicable legislation pursuant to the Protocol.

The envisaged act pursues objectives in the area of social security coordination.

Therefore, the substantive legal basis of the proposed decision is Article 48 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 48 TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the decision of the Specialised Committee will amend Annex SSC-7 to the Protocol on Social Security Coordination to the Trade and Cooperation Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 48, 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 part² (the ‘Trade and Cooperation Agreement’) was concluded by the Union by means of Council Decision (EU) 2021/689³.
- (2) Pursuant to Article 778(1) of the Trade and Cooperation Agreement, the Protocols and Annexes to that Agreement form an integral part thereof. In accordance with Article 783(3) of the Trade and Cooperation Agreement, as from the date from which that Agreement was provisionally applied, references to the date of its entry into force are to be understood as references to the date from which it was provisionally applied.
- (3) Article 8(4)(c) of the Trade and Cooperation Agreement empowers the Specialised Committee on Social Security Coordination (the ‘Specialised Committee’) to adopt decisions, including amendments, and recommendations in respect of all matters where that Agreement so provides. Pursuant to Article SSC.68 of the Protocol on Social Security Coordination to the Trade and Cooperation Agreement (the ‘Protocol’), the Specialised Committee may amend the Annexes and Appendices to the Protocol. In accordance with Article 10(1) of the Trade and Cooperation Agreement, the decisions adopted by the Specialised Committee are binding on the Parties.
- (4) The Specialised Committee is scheduled to adopt a decision pursuant to Article SSC.68 of the Protocol to amend Annex SSC-7 to the Protocol in order to introduce the possibility for Member States and the United Kingdom to conclude agreements to

² OJ L 149, 30.4.2021, p. 10.

³ 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).

derogate, only in a limited set of pre-defined situations in specific individual cases and in the interest of the persons concerned, from the rules on applicable legislation pursuant to the Protocol. The envisaged decision of the Specialised Committee will, if adopted, produce legal effects for the Union.

- (5) It is therefore appropriate to establish the position to be taken within the Specialised Committee with regard to the amendment of Annex SSC-7 to the Protocol,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Specialised Committee on Social Security Coordination established by Article 8(1)(p) of the Trade and Cooperation Agreement (the 'Specialised Committee') shall be based on the draft decision of the Specialised Committee attached to this Decision.

Article 2

Minor technical changes to the position set out in the draft decision of the Specialised Committee attached to this Decision may be agreed upon without a further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President