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2026/0354 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken on behalf of the European Union in the Partnership Council 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 decision No 1/2026 of the Partnership Council

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Partnership Council 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 Agreement', or 'the Trade and Cooperation Agreement'). The position relates to the interpretation and implementation of Article 331(2) of that Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The EU-UK Trade and Cooperation Agreement

The Trade and Cooperation Agreement was signed on 30 December 2020, applied provisionally since 1 January 2021 and entered into force on 1 May 2021. It establishes the basis for a broad relationship between the Union and the United Kingdom involving reciprocal rights and obligations, common actions and special procedures.

2.2. The Partnership Council

Article 7(1) of the Trade and Cooperation Agreement establishes the Partnership Council.

Pursuant to Article 519(b) of the Agreement, the Partnership Council may adopt decisions to issue interpretations of the provisions of Part Two of the Agreement.

Pursuant to Article 331(2) of the Agreement, the Partnership Council may also adopt decision to extend the application of the Part Two, Heading One, Title VIII on energy of the Trade and Cooperation Agreement ('Title VIII').

2.3. The envisaged act of the Partnership Council

Through their Joint Declaration 1/2025 in the Partnership Council, the European Union and the United Kingdom expressed their shared political understanding that the objectives of Title VIII should be pursued on a continuous basis through the extension of the application of Title VIII.

Through its Decision No 2/2025, the Partnership Council adopted an interpretation of a provision of Part Two of the Agreement, namely Article 331(2) of the Agreement. It also adopted a decision to implement this Article 331(2) to the effect of extending the application of Title VIII until 31 March 2027.

In accordance with Article 519(b) of the Trade and Cooperation Agreement, the Partnership Council is to adopt at its next meeting or by written procedure a decision interpreting in a similar manner Article 331(2) of the Agreement.

In accordance with Article 331(2) of the Trade and Cooperation Agreement, the Partnership Council is also to adopt a decision to implement the Article 331(2) of the Agreement to the effect of extending the application of Title VIII until 31 March 2028.

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

The position to be taken on the Union's behalf is to endorse the adoption by the Partnership Council of a decision interpreting Article 331(2) of the Trade and Cooperation Agreement. As in the Partnership Council Decision No 2/2025, the position should be that Article 331(2) of the Trade and Cooperation Agreement shall be interpreted to the effect that a decision to

extend Title VIII until 31 March 2028 can be adopted before 1 April 2027 provided that it takes effect as of 1 April 2027.

The position should also be to endorse the adoption by the Partnership Council of a decision implementing Article 331(2) of the Trade and Cooperation Agreement by making Title VIII applicable until 31 March 2028.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

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

4.1.2. Application to the present case

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

The decision, which the Partnership Council is called upon to adopt in accordance with Article 519(b) and Article 331(2) of the Agreement, constitutes an act having legal effects, within the meaning of Article 218(9) of the TFEU. The decision will be binding on the Parties in accordance with Article 10(1) of the Agreement.

The decision does not supplement or amend the institutional framework of the Trade and Cooperation Agreement.

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

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) of the TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) of the TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(9) of the TFEU will have to include, exceptionally, the various corresponding legal bases.

4.2.2. Application to the present case

The objective and the content of the envisaged act relate to energy. Therefore, the substantive legal basis of the proposed decision is Article 194(2) of the TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 194(2) of the TFEU, in conjunction with 218(9) of the TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the purpose of the decision of the Partnership Council is to interpret and implement a provision of the Trade and Cooperation Agreement, in the interest of legal certainty and transparency, it is appropriate to publish the decision of the Partnership Council in the Official Journal of the European Union after its adoption.

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establishing the position to be taken on behalf of the European Union in the Partnership Council 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 decision No 1/2026 of the Partnership Council

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof, 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 part ('the Trade and Cooperation Agreement' or 'the Agreement') was concluded by the Union by means of Council Decision (EU) 2021/689[1] and entered into force on 1 May 2021, having been provisionally applied since 1 January 2021.

(2) Pursuant to Article 519(b) of the Trade and Cooperation Agreement, the Partnership Council established under the Agreement may adopt decisions to issue interpretations of the provisions of Part Two of the Agreement.

(3) In accordance with Article 331(1) of the Agreement, Part Two, Heading One, Title VIII of the Trade and Cooperation Agreement ('Title VIII') on energy would have ceased to apply on 30 June 2026.

(4) In accordance with Article 331(2) of the Agreement, the Partnership Council may decide between 1 July 2026 and 31 December 2026 to extend the application of Title VIII until 31 March 2027.

(5) Decision No 2/2025 of the Partnership Council[2] extended the application of Title VIII until 31 March 2027.

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[1] 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).

[2] Decision No 2/2025 of the Partnership Council 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 of 19 June 2025 issuing an interpretation of Article 331(2) and extending the application of Part Two, Heading One, Title VIII on

(6) In accordance with Article 331(2) of the Agreement, between 1 April 2027 and 31 December 2027, as well as at any point of time in any subsequent year, the Partnership Council may decide that Title VIII will apply until 31 March of the following year.

(7) Through their Joint Declaration 1/2025[3] in the Partnership Council, the European Union and the United Kingdom expressed their shared political understanding that the objectives of Title VIII should be pursued on a continuous basis through the extension of the application of Title VIII.

(8) A situation in which the Partnership Council could adopt a decision on the extension of the application of Title VIII only once Title VIII has already ceased to apply could lead to an interruption to the application of Title VIII, and therefore to uncertainty as regards the legal framework applicable to trade and investment between the European Union and the United Kingdom in the areas of energy and raw materials.

(9) To provide for legal certainty and predictability, it is therefore appropriate to adopt a decision interpreting Article 331(2) of the Agreement to the effect that a decision of the Partnership Council on the extension of the application of Title VIII until 31 March 2028 can be adopted before 1 April 2027, provided that it takes effect only as of 1 April 2027.

(10) The Partnership Council is to adopt at its next meeting or by written procedure a decision interpreting and implementing Article 331(2) of the Trade and Cooperation Agreement to allow the objectives of Title VIII to be pursued on a continuous basis through the extension of the application of Title VIII.

(11) It is appropriate to establish the position to be taken on the Union's behalf in the Partnership Council as regards the interpretation and implementation of Article 331(2) of the Trade and Cooperation Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union’s behalf in the Partnership Council 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 interpretation and implementation of Article 331(2) of that Agreement is set out in the draft decision of the Partnership Council attached to this Decision.

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energy, 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 , OJ L, 2025/1230.

[3] Joint Declaration 1/2025 of the Union and the United Kingdom in the Partnership Council 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 of 19 June 2025, (OJ L, 2025/1232).

Article 2

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

Done at Brussels,

For the Council
The President