



EUROPEAN  
COMMISSION

Brussels, 23.2.2026  
COM(2026) 89 final

2026/0055 (NLE)

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 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**

## **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 Trade Specialised Committee on Level Playing Field 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 ('the Trade and Cooperation Agreement') on 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.

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The Trade and Cooperation Agreement**

The Trade and Cooperation Agreement concluded between the EU and the United Kingdom sets out preferential arrangements in areas such as trade in goods and in services, digital trade, intellectual property, public procurement, aviation and road transport, energy, fisheries, social security coordination, law enforcement and judicial cooperation in criminal matters, thematic cooperation and participation in Union programmes. In particular, Chapters 6, 7 and 8 of the of Title XI of the Trade and Cooperation Agreement include provisions on Labour and Social Standards, Environmental and Climate, and other instruments for Trade and Sustainable Development.

#### **2.2. The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development**

The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development established under Article 8(1) j) of the Trade and Cooperation Agreement comprises representatives of the Union and of the United Kingdom. It is co-chaired by the Union and the United Kingdom. Annex 1 to the Trade and Cooperation Agreement lays down the rules of procedure of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development. The tasks of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development are laid down in Article 8 of the Trade and Cooperation Agreement and consist principally of:

- monitoring and reviewing the implementation and ensure the proper functioning of this Agreement or any supplementing agreement;
- adopting decisions in respect of all matters where this Agreement or any supplementing agreement so provides.

#### **2.3. The envisaged act of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development**

In accordance with Article 408 of the Trade and Cooperation Agreement, for any matter arising under Article 355 (3) and Chapters 6, 7, 8 of the Title XI of the Trade and Cooperation Agreement, a Party may request consultation with the aim of reaching a mutually satisfactory resolution.

Article 409 (1) of the Trade and Cooperation Agreement provides that, if such a matter has not been satisfactorily addressed through consultations under Article 408 of the Trade and

Cooperation Agreement, a Party may request that a panel of experts be convened to examine the matter.

In accordance with Article 409 (3) of the Trade and Cooperation Agreement, the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall establish a list of at least 15 individuals who are willing and able to serve as panellists.

Each Party shall name at least five individuals to the list to serve as panellists. The Parties shall also name at least five individuals who are not nationals of either Party and who are willing and able to serve as chairperson of a panel of experts.

The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development shall ensure that the list is kept up to date and that the number of experts is maintained at a minimum of 15 individuals.

According to paragraph 4 of Article 409 of the Trade and Cooperation Agreement, the experts proposed as panellists must have specialised knowledge or expertise in labour or environmental law, other issues addressed in the relevant Chapter or Chapters, or in the resolution of disputes arising under international agreements.

The experts proposed as panellists must serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute. They must not be affiliated with or take instructions from either Party and shall not be persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom.

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

In accordance with Article 783 of the Trade and Cooperation Agreement, the Agreement entered into force on 1 May 2021.

Based on their respective proposals, the Union and the United Kingdom should jointly agree on

- the sub-list of individuals established on the basis of proposals by the Union;
- the sub-list of individuals established on the basis of proposals by the United Kingdom;
- the sub-list of individuals who are not nationals of either Party and who should serve as chairperson to the panel of experts

The position of the Union should therefore be to support the adoption of a decision by the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development pursuant to Article 409 of the Trade and Cooperation Agreement establishing a list of individuals willing and able to serve as panellists under the Agreement and for matters arising under Article 355 (3) and Chapters 6,7,8 of the Title XI of the Trade and Cooperation Agreement, in line with the draft decision attached to this proposal.

### **4. LEGAL BASIS**

The legal bases in the Treaty on the Functioning of the European Union are those that govern the areas in which dispute settlement procedure may arise, namely

- Article 207(4), first subparagraph, TFEU (common commercial policy),

in conjunction with Article 218(9) TFEU that 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.*’

The decision which the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development is called upon to adopt, constitutes an act having legal effects. The envisaged act will be binding on Parties’ law in accordance with Article 10(1) of the Trade and Cooperation Agreement.

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

The objective and content of the envisaged act relate to establishing the Union’s position on the list of persons who are willing and able to serve as panellists under the Level Playing Field Title of the Trade and Cooperation Agreement.

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

## **5. PUBLICATION OF THE ENVISAGED ACT**

As the purpose of the decision of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development is to establish a list of individuals who are willing and able to serve as members of panel of experts under the Trade and Cooperation Agreement, it is appropriate to publish the decision of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development 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 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to 409(3) of the Trade and Cooperation Agreement, the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development is to establish a list of at least 15 individuals who are willing and able to serve as panellists on matters arising under Article 355(3) and Chapters 6, 7, and 8 of the Trade and Cooperation Agreement.
- (2) Each Party should name at least five individuals to serve as panellists. The Parties should also name at least five individuals who are not nationals of either Party and who are willing and able to serve as chairperson of a panel of experts.
- (3) The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development should ensure that the list is kept up to date and that the number of experts is maintained at a minimum of 15 individuals.
- (4) In accordance with Article 409(4) of the Trade and Cooperation Agreement, the experts proposed as panellists should have specialised knowledge or expertise in labour or environmental law, other issues addressed in the relevant Chapter or Chapters, or in the resolution of disputes arising under international agreements.
- (5) In addition, the experts proposed as panellists should serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute. They should not be affiliated with or take instructions from either Party and should not be persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom.
- (6) On the basis of the proposals of the Union and the United Kingdom, it is appropriate for the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development to agree on the two sub-lists, for the

position of panellist, and on the sub-list of for the position of chairperson of the panel of experts,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf within the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development established by Article 8(1) j) of the Trade and Cooperation Agreement shall be based on the draft Decision of the Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development attached to this Decision.

*Article 2*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council  
The President*