



2023/2505

10.11.2023

COUNCIL DECISION (EU) 2023/2505

of 26 July 2022

on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Customs Cooperation and Rules of Origin as regards the consultation laid down in Article 63(3) 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

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) 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 ⁽¹⁾ (the 'Agreement'), was concluded by Council Decision (EU) 2021/689 ⁽²⁾ and entered into force on 1 May 2021.
- (2) The Agreement includes a consultation procedure in case of denial of preferential tariff treatment in Article 63(3). Pursuant to Article 121(2), point (d), of the Agreement, the Trade Specialised Committee on Customs Cooperation and Rules of Origin (the 'Committee') established by Article 8(1), point (c), of the Agreement may adopt decisions or recommendations on the procedures for the consultation established in Article 63(3) of the Agreement. Pursuant to Article 10 of the Agreement, decisions adopted by the Committee are binding on the Parties to the Agreement.
- (3) It is appropriate to establish the position to be taken on the Union's behalf within the Committee, as the Decision of the Committee on the rules of consultations established in Article 63(3) of the Agreement will have legal effects.
- (4) Establishing rules for the consultation procedure provided for in Article 63(3) of the Agreement should bring clarity and ensure transparency in case the importing Party decides to deny the preferential tariff treatment to a product of the exporting Party against the positive opinion of the exporting Party confirming its originating status.
- (5) The position of the Union within the Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Trade Specialised Committee on Customs Cooperation and Rules of Origin (the 'Committee') 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, shall be based on the draft Decision of the Committee attached to this Decision.

⁽¹⁾ OJ L 149, 30.4.2021, p. 10.

⁽²⁾ 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).

Article 2

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

Done at Brussels, 26 July 2022.

For the Council
The President
J. SÍKELA

DRAFT

DECISION No ... OF THE EU-UK TRADE SPECIALISED COMMITTEE

on Customs Cooperation and Rules of Origin

of ...

concerning the consultation procedure in case of denial of preferential tariff treatment under 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 SPECIALISED COMMITTEE on Customs Cooperation and Rules of Origin,

Having regard to 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 in particular Article 63(3) thereof concerning the establishment of a consultation procedure in case of denial of preferential tariff treatment,

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 ⁽¹⁾ (the 'Agreement'), was concluded by Council Decision (EU) 2021/689 ⁽²⁾ and entered into force on 1 May 2021.
- (2) Article 121(2), point (d), of the Agreement provides that the Trade Specialised Committee on Customs Cooperation and Rules of Origin (the 'Committee') may adopt decisions or recommendations on the procedure for the consultation established in Article 63(3) of the Agreement.
- (3) Article 63(3) of the Agreement provides that when the customs authority of the importing Party notifies the customs authority of the exporting Party of its intention to deny the preferential tariff treatment after the receipt of the opinion of the exporting Party confirming the origin of the product, consultations are to be held at the request of either Party within three months after the date of that notification, and may take place in accordance with the procedure set by the Committee.
- (4) In accordance with Article 63(3) of the Agreement, a procedure for consultations is to be established to facilitate an agreement between the Parties in the case of denial of preferential tariff treatment against the opinion of the exporting Party confirming the origin of the product,

HAS ADOPTED THIS DECISION:

Article 1

The consultation referred to in Article 63(3) 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, shall take place in accordance with the procedure for consultations set out in the Annex to this Decision.

⁽¹⁾ OJ L 149, 30.4.2021, p. 10.

⁽²⁾ 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).

Article 2

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

It shall apply from the same day.

Done at ...,

*For the Trade Specialised Committee
The EU Co-chair and the UK Co-chair*

ANNEX

PROCEDURE FOR CONSULTATIONS IN ACCORDANCE WITH ARTICLE 63(3), SECOND SUBPARAGRAPH, 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

Rule 1

1. After the customs authority of the importing Party has notified the customs authority of the exporting Party of its intention to deny the preferential tariff treatment, a Party may submit a request for consultations to the other Party pursuant to Article 63(3), second subparagraph, 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 (the 'Agreement').
2. The request shall be made by the member of the Secretariat of the Trade Specialised Committee on Customs Cooperation and Rules of Origin (the 'Committee') of the requesting Party to the member of the Secretariat of the other Party by e-mail or, where appropriate, by any other means of communication that provides a record of the sending thereof. Unless proven otherwise, such request shall be deemed to be received on the date of its sending.

Rule 2

1. Consultations shall be convened and concluded within three months after the date of the notification of the intention referred to in Rule 1, unless the Parties have agreed to extend the period for consultations. During that period, the Parties may meet one or several times.
2. Consultations shall be held in person or by any other means of communication agreed by the Parties. If held in person, consultations shall take place in the territory of the Party to which the consultations requested are addressed, unless the Parties agree otherwise.

Rule 3

15 calendar days in advance of each session of consultation, each Party shall inform the other Party, through the Secretariat, of the intended composition of its delegation and shall specify the name and function of each member thereof.

Rule 4

1. The consultations shall be held in English.
2. Written documents relevant for the consultations shall be circulated, through the Secretariat, to the other Party. They may be in any of the official languages of the Union.

Rule 5

1. Draft minutes of each consultation session shall be drawn up by the official acting as member of the Secretariat of the respondent Party hosting the meeting within 8 calendar days. The draft minutes shall be transmitted for comments to the member of the Secretariat of the other Party, who may submit comments within 8 calendar days.
2. The minutes shall summarise the consultation sessions, specifying where applicable:
 - (a) the documents submitted;
 - (b) any statement that a Party requested be entered in the minutes; and
 - (c) the conclusions reached, which may include the extension of the duration of the consultations.

3. The minutes shall include as an annex a list of participants setting out for each of the delegations the names and functions of all individuals who attended the meeting.
4. The Secretariat shall adjust the draft minutes on the basis of the comments received. The draft minutes, as revised, shall be approved by the Parties within 28 calendar days of the date of the session, or by any other date agreed by the Parties. Upon approval of the minutes, any agreement reached shall take effect between the Parties at the session of consultations when that conclusion was adopted.
5. If the consultations are held in writing, the result of the written consultations shall be recorded in the minutes of the next meeting of the Committee. Any agreement reached during the written consultations shall take effect between the Parties at the session of consultations when that conclusion was adopted.

Rule 6

1. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter within the period of consultation referred to in Rule 2. If the Parties reach an agreement, it shall be binding upon the Parties.
 2. For the purpose of Article 63(3), third subparagraph, of the Agreement, the period of consultation referred to in Rule 2 shall be considered expired when it arrives at its term and the Parties do not agree to extend it, unless the consultation was not held for reasons attributable to the importing Party.
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