



2023/2921

28.12.2023

**COUNCIL DECISION (EU) 2023/2921**

**of 21 December 2023**

**establishing the position to be taken on behalf of the European Union within 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 transitional product-specific rules for electric accumulators and electrified vehicles**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, 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') was concluded by the Union and approved by means of Council Decision (EU) 2021/689 of 29 April 2021 <sup>(1)</sup> and entered into force on 1 May 2021.
- (2) Chapter 2 of Title I of Heading One of Part Two of the Trade and Cooperation Agreement and Annexes 2 to 9 thereto lay down provisions on the definition of originating products and methods of administrative cooperation.
- (3) Pursuant to Articles 7 and 68 of the Trade and Cooperation Agreement, the Partnership Council may amend Chapter 2, 'Rules of Origin', of Title I, 'Trade in Goods', of Heading One, 'Trade', of Part Two, 'Trade, Transport, Fisheries and Other Arrangements', and the related annexes.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Partnership Council as its decision as regards the transitional product-specific rules for electric accumulators and electrified vehicles will be binding on the Union.
- (5) Annex 5 to the Trade and Cooperation Agreement provides for a phased entry into force of product-specific rules of origin for electric accumulators and electrified vehicles.
- (6) The global security, economic and trade context, including Russia's war of aggression against Ukraine, the COVID pandemic, and competition from new international subsidy support schemes, has led to the pausing or postponement of some investments in the European battery ecosystem, as well as slower delivery of the significant investment plans that were maintained despite the overall conditions. The direct consequences of those external events, such as soaring energy costs and high inflation rates, have further hindered the development the battery ecosystem in the Union.
- (7) The slower than expected development of the battery ecosystem has raised concerns in the Union industry that European automotive exports to the United Kingdom will not comply with incoming product-specific rules on origin, which will lead to the imposition of tariffs on those exports and impact negatively their competitiveness in the UK market.

<sup>(1)</sup> 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).

- (8) It is therefore appropriate to provide industry in the Union with a bridging mechanism. That mechanism should allow the battery industry to further scale-up and support a strong production base for electric vehicles in the Union that can compete internationally. This will ensure that Union automotive exports to the United Kingdom ultimately comply with the rules of origin under the Trade and Cooperation Agreement.
- (9) The bridging mechanism will allow for the continued application of the current product-specific rules of origin for electric accumulators and electrified vehicles until 31 December 2026. From 1 January 2027, the product-specific rules of origin specified in Annex 3 to the Trade and Cooperation Agreement will apply.
- (10) The aim of the rules of origin for electric accumulators and electrified vehicles set out in the Trade and Cooperation Agreement is to incentivise investment in battery-manufacturing capacity in the Union and in the United Kingdom. No further postponement of the incoming rules is being considered. Therefore, a limitation on the possibility of further changes to the product-specific rules of origin for electric accumulators and electrified vehicles should be introduced.
- (11) The Union is committed to developing and strengthening Union supply chains and an ecosystem on batteries and electric vehicles. Therefore, a one-off extension of the currently applicable rules of origin should be accompanied by strategic support for the battery sector and more active engagement with the industry. In particular, it is important that the Union automotive industry increases its investments along the entire battery value chain, concluding offtake agreements with a view to meeting at least 70 % of the demand for batteries through domestic sourcing and to contributing to strengthening the sustainability, traceability and circularity of batteries in line with the existing acquis and, in particular, Regulation (EU) 2023/1542 of the European Parliament and the Council <sup>(2)</sup>.
- (12) To further foster faster and more cost-efficient supports for the manufacturing of the most sustainable batteries in Member States, the Council takes note that the Commission will set up a dedicated instrument under the Innovation Fund <sup>(3)</sup>. This instrument, which will be launched in 2024, in full respect of the objectives and criteria established in Commission Delegated Regulation (EU) 2019/856 <sup>(4)</sup>, will provide funding of up to EUR 3 billion for the next three years, awarded, possibly as a fixed premium to manufactured battery capacity to Union manufacturers of the most sustainable batteries creating important spill-over effects on the entire Union battery value chain, notably its upstream segment. The mechanism should support CAPEX and OPEX, in conformity with the Treaties, and be cumulative to other forms of support received by eligible entities. The budget of the calls, the eligibility criteria and other terms and conditions for this instrument will be determined in 2024.
- (13) The Council takes note that the Commission will also extend the Instrument to enable Member States to use their national budgets' resources to award support to projects relevant to the development of Union capacities for the sustainable manufacturing of batteries in their territories, while relying on a Union-wide auction mechanism to identify the most competitive projects. This approach will avoid the fragmentation of the battery market in the Union and save on the administrative costs of developing different support schemes across Member States.
- (14) The Commission will closely monitor the engagement of the Union automotive industry in the development of a Union battery ecosystem. In particular, the Commission will engage in semi-annual dialogues with the automotive and battery industries in order to assess continually progress toward meeting the headline target of at least 70 % of

<sup>(2)</sup> Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1).

<sup>(3)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>(4)</sup> Commission Delegated Regulation (EU) 2019/856 of 26 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council with regard to the operation of the Innovation Fund (OJ L 140, 28.5.2019, p. 6).

the demand for batteries through domestic sourcing and industry's preparedness to meet the permanent Trade and Cooperation Agreement rules of origin which will apply as of 2027. Based on its assessments, the Commission will consider additional measures for better compliance, as appropriate.

- (15) While the decision of the Partnership Council removes one step in the phasing-in of stricter rules of origin under the Trade and Cooperation Agreement and therefore extends the current rules of origin until the end 2026, the Union remains committed to the rules that will enter into force in 2027. Accordingly, the Partnership Council decision which is the subject of this Decision therefore limits the possibility of making further changes to product-specific rules of origin for electric accumulators and electrified vehicles through a further decision of the Partnership Council. The Commission will continue to evaluate the situation on global and European battery markets on an ongoing basis,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf in the Partnership Council is set out in the Annex to this Decision.

*Article 2*

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

Done at Brussels, 21 December 2023.

*For the Council*  
*The President*  
P. NAVARRO RÍOS

**DRAFT****DECISION No .../2023 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 ...****as regards the transitional product-specific rules of origin for electric accumulators and electrified vehicles**

THE PARTNERSHIP COUNCIL,

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 its Article 68 and its Annex 5,

Whereas:

- (1) The Trade and Cooperation Agreement, in its Annex 5, provides for a phased-in entry into force of product-specific rules of origin for electric accumulators and electrified vehicles.
- (2) Concerns were raised about challenges posed by the application of these rules to the assembly of electric vehicles in the European Union and in the United Kingdom.
- (3) It is therefore appropriate to extend the application of the product-specific rules of origin for electric accumulators and electrified vehicles applicable until 31 December 2023 up to 31 December 2026. From 1 January 2027, the product-specific rules of origin for electric accumulators and electrified vehicles as set out in Annex 3 of the Trade and Cooperation Agreement will apply.
- (4) The aim of the product-specific rules for electric accumulators and electrified vehicles set out in the Trade and Cooperation Agreement is to incentivise the investment in a manufacturing capacity in the European Union and in the United Kingdom. No further postponement of the incoming rules should be considered. Therefore, the envisaged amendment should furthermore remove the possibility for further changes to the product-specific rules of origin for electric accumulators and electrified vehicles until 1 January 2032.

HAS ADOPTED THIS DECISION:

*Article 1*

Article 68 of the Trade and Cooperation Agreement is replaced by the following:

*'Article 68***Amendment to this Chapter and its Annexes**

1. The Partnership Council may amend this Chapter and its Annexes, subject to paragraph 2.
2. Paragraph 1 shall not apply to:
  - (a) Annex 5 to this Agreement;
  - (b) the product-specific rules of origin set out in Annex 3 for products listed in Annex 5, until 1 January 2032; and
  - (c) this Article, insofar as it relates to Annex 3 for products listed in Annex 5, and Annex 5, until 1 January 2032;

However, paragraph 1 shall apply where the product-specific rules of origin set out in Annex 3 for products listed in Annex 5, or in Annex 5 are amended due to updates of the Harmonised System.’.

*Article 2*

Annex 5 to the Trade and Cooperation Agreement is replaced by the text in Annex to this Decision.

*Article 3*

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

Done at ...,

*For the Partnership Council  
The Co-chairs*

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## ANNEX

## 'ANNEX 5

## TRANSITIONAL PRODUCT-SPECIFIC RULES FOR ELECTRIC ACCUMULATORS AND ELECTRIFIED VEHICLES

Interim product-specific rules applicable from the entry into force of this Agreement until 31 December 2026

For the products listed in column 1 below, the product-specific rule listed in column 2 shall apply for the period from the entry into force of this Agreement until 31 December 2026.

| Column 1                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Column 2                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Harmonised System classification (2017) including specific description                                                                                                                                                                                                                                                                                                                                                                                               | Product-specific rule of origin applicable from the entry into force of this Agreement until 31 December 2026                |
| 85.07                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                              |
| — Accumulators containing one or more battery cells or battery modules and the circuitry to interconnect them amongst themselves, often referred to as “battery packs”, of a kind used as the primary source of electrical power for propulsion of vehicles of headings 87.02, 87.03 and 87.04                                                                                                                                                                       | CTSH;<br><br>Assembly of battery packs from non-originating battery cells or battery modules;<br><br>or<br>MaxNOM 70 % (EXW) |
| — Battery cells, battery modules, and parts thereof, intended to be incorporated into an electric accumulator of a kind used as the primary source of electrical power for propulsion of vehicles of headings 87.02, 87.03 and 87.04                                                                                                                                                                                                                                 | CTH;<br><br>or<br>MaxNOM 70 % (EXW)                                                                                          |
| 87.02-87.04                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                              |
| — vehicles with both internal combustion engine and electric motor as motors for propulsion other than those capable of being charged by plugging to external source of electric power (“hybrid”);<br><br>— vehicles with both internal combustion piston engine and electric motor as motors for propulsion capable of being charged by plugging to external source of electric power (“plug-in hybrid”);<br><br>— vehicles with only electric motor for propulsion | MaxNOM 60 % (EXW)’.                                                                                                          |