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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 18 September 2026 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2026) 489 final |
| Subject: | Proposal for a COUNCIL DECISION establishing the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the adoption of a decision adding a newly adopted Union act to Annex 2 to the Windsor Framework |

Delegations will find attached document COM(2026) 489 final.

Encl.: COM(2026) 489 final

EUROPEAN
COMMISSION

Brussels, 18.9.2026
COM(2026) 489 final

2026/0285 (NLE)

Proposal for a

# COUNCIL DECISION

**establishing the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the adoption of a decision adding a newly adopted Union act to Annex 2 to the Windsor Framework**

# EXPLANATORY MEMORANDUM

## 1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[1] ('the Withdrawal Agreement') in connection with the envisaged adoption of a Joint Committee Decision amending Annex 2 to the Windsor Framework[2], which forms an integral part of the Withdrawal Agreement.

## 2. CONTEXT OF THE PROPOSAL

### 2.1. The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Windsor Framework

The Withdrawal Agreement sets out the arrangements for the orderly withdrawal of the United Kingdom from the Union and Euratom. The Withdrawal Agreement entered into force on 1 February 2020. On 27 February 2023, the European Commission and the Government of the United Kingdom reached a political agreement in principle on the Windsor Framework. On 24 March 2023, the Joint Committee established by the Withdrawal Agreement adopted the new arrangements relating to the Windsor Framework. The two Parties agreed to fully, timely, and faithfully implement the Windsor Framework.

### 2.2. The Joint Committee

The Joint Committee established under Article 164(1) of the Withdrawal Agreement comprises representatives of the Union and of the United Kingdom. It is co-chaired by the Union and the United Kingdom. Annex VIII to the Withdrawal Agreement lays down the rules of procedure of the Joint Committee. The Joint Committee meets at least once a year or at the request of the Union or the United Kingdom and it sets its meeting schedule and agenda by mutual consent. In accordance with Article 166(3) of the Withdrawal Agreement, the Joint Committee adopts its decisions by mutual consent.

The tasks of the Joint Committee are laid down in Article 164 of the Withdrawal Agreement and consist principally of:

- overseeing the implementation and application of the Agreement directly or through the work of the specialised committees reporting to it;
- adopting decisions and recommendations, including amendments to the Agreement in the cases provided therein;
- preventing problems and resolving disputes that may arise regarding the interpretation and application of the Agreement.

### 2.3. The envisaged act of the Joint Committee

During its next meeting, the Joint Committee is to adopt a decision adding a newly adopted Union act that partly falls within the scope of the Windsor Framework to Annex 2 to the Windsor Framework ('the envisaged act').

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1 OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.

2 Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023(OJ L 102, 17.4.2023, p. 87).

The purpose of the envisaged act is thus to add a newly adopted Union act that falls partly within the scope of the Windsor Framework to Annex 2 to the Windsor Framework, pursuant to its Article 13(4).

The envisaged act will become binding on the Parties in accordance with Article 166(2) of the Withdrawal Agreement, which provides: *'The decisions adopted by the Joint Committee shall be binding on the Union and the United Kingdom, and the Union and the United Kingdom shall implement those decisions. They shall have the same legal effect as this Agreement.'*. In accordance with Rule 9 of the Rules of Procedure of the Joint Committee and Specialised Committees, decisions adopted by the Joint Committee will specify the date at which they take effect.

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

### 3.1. Annex 2 ('Provisions of Union law referred to in Article 5(4)') to the Windsor Framework

Annex 2 to the Windsor Framework contains the provisions of Union law referred to in Article 5(4) thereof, i.e. the provisions of Union law that shall also apply, under the conditions set out in that Annex, to and in the United Kingdom in respect of Northern Ireland.

On 11 February 2025, the Union adopted Regulation (EU) 2025/327 on the European Health Data Space[3].

Regulation (EU) 2025/327 sets the first domain-specific European data space. Among other things, Chapter III of the Regulation aims to harmonise rules for digital health products and services by laying down a uniform legal framework for the development, marketing and use of electronic health record systems (EHR systems). It also lays down rules and procedures for the market surveillance of such products.

Chapter III of Regulation (EU) 2025/327, insofar as the free movement of products is concerned, relates to the internal market for goods and therefore falls within the scope of the Windsor Framework. Article 29 of Regulation (EU) 2025/327, which is included in its Chapter III, concerns public procurement, which falls outside the scope of the Windsor Framework. Chapter III should therefore, with the exception of Article 29, be added to Annex 2 to the Windsor Framework, under point 47 "Other", with the following note, "*as regards conditions and technical specifications for the placing on the market of products, and for their putting into service insofar as the free movement of products is concerned, and with the exception of Article 29*".

It is therefore necessary to establish the position to be taken by the Union within the Joint Committee with regard to the addition of Chapter III of the above mentioned newly adopted Union act to Annex 2 to the Windsor Framework.

## 4. LEGAL BASIS

### 4.1. Procedural legal basis

The Joint Committee is a body set up by an agreement, namely the Withdrawal Agreement.

[3] Regulation (EU) 2025/327 of the European Parliament and of the Council of 11 February 2025 on the European Health Data Space and amending Directive 2011/24/EU and Regulation (EU) 2024/2847, (OJ L, 2025/327, 5.3.2025, ELI: http://data.europa.eu/eli/reg/2025/327/oj).

The act which the Joint Committee is called upon to adopt has legal effects, because it will produce legal effects under the Withdrawal Agreement for the Union. The envisaged act will be binding on the Parties in accordance with Article 166(2) of the Withdrawal Agreement.

The envisaged act does not supplement or amend the institutional framework of the Withdrawal 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 adding a newly adopted Union act to Annex 2 to the Windsor Framework.

The conclusion of the Withdrawal Agreement was based on Article 50(2) TEU.

Therefore, the substantive legal basis of the proposed decision is Article 50(2) TEU.

### 4.3. Conclusion

The legal basis of the proposed decision should be Article 50(2) TEU, in conjunction with Article 218(9) TFEU.

## 5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Joint Committee will amend Annex 2 to the Windsor Framework, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

2026/0285 (NLE)

Proposal for a

# COUNCIL DECISION

## establishing the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the adoption of a decision adding a newly adopted Union act to Annex 2 to the Windsor Framework

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50(2) thereof, in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[4] (the 'Withdrawal Agreement') was concluded by the Union by means of Council Decision (EU) 2020/135[5].

(2) Pursuant to Article 13(4) of the Windsor Framework[6], which forms an integral part of the Withdrawal Agreement, the Joint Committee set up by the Withdrawal Agreement is able to adopt decisions to amend the relevant Annexes to the Windsor Framework by adding newly adopted Union acts that fall within the scope of the Windsor Framework, but which neither amend nor replace Union acts listed in the Annexes to the Windsor Framework.

(3) The Joint Committee, during its next meeting, is scheduled to adopt a decision adding a newly adopted Union act to Annex 2 to the Windsor Framework.

(4) Chapter III of Regulation (EU) 2025/327 of the European Parliament and of the Council[7], to the extent it contains conditions and technical specifications for the placing on the market of products or relate to the provision of services that may affect the free movement of products, includes provisions of a newly adopted Union act falling within the scope of the Windsor Framework which should be added to Annex 2 to the Windsor Framework. This does not apply to Article 29 of that Regulation which is included in its Chapter III.

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4 OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.

5 Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, (OJ L 29, 31.1.2020, p. 1, ELI: http://data.europa.eu/eli/dec/2020/135/oj).

6 Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 (OJ L 102, 17.4.2023, p. 87).

7 Regulation (EU) 2025/327 of the European Parliament and of the Council of 11 February 2025 on the European Health Data Space and amending Directive 2011/24/EU and Regulation (EU) 2024/2847 (OJ L, 2025/327, 5.3.2025, ELI: http://data.europa.eu/eli/reg/2025/327/oj).

(5) The envisaged decision of the Joint Committee will, if adopted, produce legal effects for the Union. Chapter III of Regulation (EU) 2025/327 of the European Parliament and of the Council should be added to Annex 2 to the Windsor Framework, with the exception of Article 29.

(6) It is therefore necessary to establish the position to be taken within the Joint Committee with regard to the addition of a newly adopted Union act to Annex 2 to the Windsor Framework,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken on the Union's behalf within the Joint Committee established under Article 164(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Joint Committee') shall be based on the draft decision of the Joint Committee attached to this Decision.

*Article 2*

Minor technical changes to the position set out in the draft decision of the Joint 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*