

Brussels, 30 September 2026
(OR. en)

13738/26

Interinstitutional File:
2026/0288 (NLE)

UK 196
JAI 1218
COPEN 359
IXIM 205

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 September 2026
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2026) 496 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Specialised Committee on Law Enforcement and Judicial Cooperation 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, regarding an amendment of the standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) of that Agreement

Delegations will find attached document COM(2026) 496 final.

Encl.: COM(2026) 496 final



EUROPEAN
COMMISSION

Brussels, 28.9.2026
COM(2026) 496 final

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Specialised Committee on Law Enforcement and Judicial Cooperation 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, regarding an amendment of the standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) of that Agreement

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

Proposal on the position to be taken on behalf of the European Union in the Specialised Committee on Law Enforcement and Judicial Cooperation 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 part¹ (hereinafter ‘the TCA’), regarding an amendment of the standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) of that agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The EU-UK Trade and Cooperation Agreement

The TCA establishes the basis for a broad relationship between the European Union and the United Kingdom, within an area of prosperity and good neighbourliness, characterised by close and peaceful relations based on cooperation, respectful of the Parties’ autonomy and sovereignty. After provisional application since 1 January 2021, the Trade and Cooperation Agreement entered into force on 1 May 2021. The TCA also established, amongst others, a Specialised Committee on Law Enforcement and Judicial Cooperation.

2.2. The Specialised Committee on Law Enforcement and Judicial Cooperation

The Trade and Cooperation Agreement sets up a number of joint bodies, including the Specialised Committee on Law Enforcement and Judicial Cooperation (hereinafter ‘the Specialised Committee’), which is a “body set up by an agreement” in the sense of Article 218(9) of the Treaty on the Functioning of the European Union (TFEU). The Specialised Committee is established to address matters covered by Part Three of the Trade and Cooperation Agreement, entitled “Law Enforcement and Judicial Cooperation in Criminal Matters”.

With respect to issues related to its area of competence, the Specialised Committee has the power to, among others, monitor and review the implementation of Part Three of the Trade and Cooperation Agreement, assist the Partnership Council in the performance of its tasks and adopt decisions, including amendments, and recommendations in respect of all matters where the Trade and Cooperation Agreement or any supplementing agreement so provides.

2.3. The envisaged act of the Specialised Committee on Law Enforcement and Judicial Cooperation

In accordance with Article 678(6) of the TCA, the Specialised Committee may amend the standards forms referred to in paragraphs 4 and 5 of that Article and set out in Annex 46 of the TCA, as may be necessary (‘the envisaged act’)

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

The envisaged act seeks to align the standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) of the TCA, which are contained in Annex 46 of the TCA, with the operative requirements of Titel XI of the TCA, which governs judicial cooperation for the purpose of asset freezing and confiscation. This aims at removing

¹ OJ L 149, 30.4.2021, pp. 10–2539.

ambiguities in the current forms, since the interpretation of certain sections of the current forms have proven to impact effective cooperation in practice.

It is in the interests of the Union to enhance legal certainty by ensuring that the standard forms are fully aligned with the respective operative provisions of the TCA. A proposal for the amended forms set out in the draft Decision of the Specialised Committee attached to this proposal for a Council Decision has been drafted jointly by experts of the Union and of the United Kingdom to address current inconsistencies in the forms with the requirements of the TCA, taking into account the view of practitioners in the UK and the views of Member States.

Given that, in accordance with Article 678(6) of the TCA, the Specialised Committee may amend the standards forms referred to in paragraphs 4 and 5 of that Article (Annex 46 of the TCA) as may be necessary, the position to be taken on the Union's behalf in the Specialised Committee needs to be established.

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 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 concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'².

4.1.2. Application to the present case

The Specialised Committee is a body set up by an agreement, namely the TCA.

In accordance with Article 678(6) of the TCA, the Specialised Committee may amend the standards forms referred to in paragraphs 4 and 5 of that Article (Annex 46 of the TCA) as may be necessary. Once adopted, requests shall be made using this new standard form. The envisaged legal act therefore has legal effect. The envisaged act does not supplement or amend the institutional framework of the TCA.

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

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) 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) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

² Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to judicial cooperation in criminal matters for the purpose of the mutual recognition of freezing and confiscation orders.

Therefore, the substantive legal basis of the proposed decision is Article 82(1) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 82(1) TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Specialised Committee will amend the forms referred to in paragraphs 4 and 5 of Article 678 of the TCA (Annex 46 of the TCA), it is appropriate to publish it in the Official Journal of the European Union after its adoption.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Specialised Committee on Law Enforcement and Judicial Cooperation 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, regarding an amendment of the standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) of that Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1), in conjunction with Article 218(9), thereof,

Having regard to 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 information³,

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 (hereafter: ‘the TCA’) entered into force on 1 January 2021 and established a Specialised Committee on Law Enforcement and Judicial Cooperation.
- (2) Pursuant to Article 678(6) of the TCA, the Specialised Committee on Law Enforcement and Judicial Cooperation may amend the standards forms for requests for provisional measures and confiscation referred to in paragraphs 4 and 5 of that Article as may be necessary.
- (3) An amendment to the standards forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) (Annex 46 of the TCA) will ensure the full alignment of those forms with the requirements of the TCA and enhance effective cooperation.
- (4) A decision of the Specialised Committee on Law Enforcement and Judicial Cooperation on an amendment of the standard forms standard forms for requests for provisional measures and confiscation referred to in Article 678(4) and (5) will be binding on the Union.

³ OJ L 149, 30.4.2021, p. 2.

- (5) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee on Law Enforcement and Judicial Cooperation.
- (6) The Trade and Cooperation Agreement is binding on all the Member States by virtue of Decision (EU) 2021/689, which is based on Article 217 of the Treaty on the Functioning of the European Union as its substantive legal basis.
- (7) Denmark and Ireland are bound by Part Three of the Trade and Cooperation Agreement by virtue of Decision (EU) 2021/689 and are therefore taking part in the adoption and application of this Decision which implements the Trade and Cooperation Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Specialised Committee on Law Enforcement and Judicial Cooperation set up by Article 8(1)(r) of the Trade and Cooperation Agreement shall be based on the draft Decision of the Specialised Committee on Law Enforcement and Judicial Cooperation attached to this Decision.

Article 2

This Decision shall enter into force on [...].

Done at Brussels,

For the Council
The President