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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	COUNCIL DECISION 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

Delegations will find attached on behalf of the Chair of the Working Party of the UK a revised version of the above mentioned document.

Changes compared to the original Commission Proposal are marked in **bold, underline** ~~strikethrough~~.

This proposal will be presented and discussed early next year in the Working Party on the UK, under the responsibility of the incoming Portuguese Presidency.

Proposal for a

COUNCIL DECISION

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union (‘TFEU’), and in particular Article 217, in conjunction with Article 218(6), ~~Article 218(7)~~ and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,¹

¹ OJ C , , p. .

Whereas:

- (1) On **29 December 2020**~~[DATE]~~, the Council adopted ~~Council~~ Decision No (EU) **2020/...**¹⁺, ~~regarding on~~ the signing, on behalf of the Union **and on provisional application** 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 ‘Trade and Cooperation Agreement’) 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 (the ‘Security of Information Agreement’).
- (2) The Trade and Cooperation Agreement establishes the basis for a broad relationship between the Union and the United Kingdom involving reciprocal rights and obligations, common actions and special procedures. The Security of Information Agreement is a supplementing agreement to the Trade and Cooperation Agreement, intrinsically linked to the latter in particular with regard to ~~it’s~~ **the dates of** entry into application and termination. ~~The decision on the signing of the Trade and Cooperation Agreement and the Security of Information Agreement (the ‘Agreements’) should therefore be based on the legal basis providing for the establishment of an association allowing the Union to enter into commitments in all areas covered by the Treaties.~~

¹ **Council Decision (EU) 2020/... of ... on the signing, on behalf of the Union, and on provisional application 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 ..., ..., p. ...).**

⁺ **OJ: Please insert the serial number for the Council Decision in ST 13904/2020 and complete the corresponding footnote reference.**

- (3) In view of the exceptional and unique character of the Trade and Cooperation Agreement, which is a comprehensive agreement with a country that has withdrawn from the Union, the Council is hereby deciding to make use of the possibility for the Union to exercise its external competence with regard to the United Kingdom.**
- (4)** It is appropriate to define the **arrangements for** ~~modalities~~ of the Union's representation in the Partnership Council and the Committees established by the Trade and Cooperation Agreement. The Commission, as provided for in Article 17(1) of the Treaty on European Union ('TEU'), is to represent the Union and to express the Union's positions as established by the Council in accordance with the Treaties. The Council is to exercise its policy-making and coordinating functions as provided for in Article 16(1) TEU by establishing the positions to be taken on the Union's behalf in the Partnership Council and the Committees established by the Trade and Cooperation Agreement. Furthermore, where the Partnership Council or the Committees established by the Trade and Cooperation Agreement are called upon to adopt acts having legal effects, the positions to be taken on the Union's behalf in ~~these~~ **those** bodies are to be established in accordance with the procedure set out in Article 218(9) **of the Treaty on the Functioning of the European Union (TFEU)**.
- (45) Each Member State should be allowed to send one representative to accompany the Commission representative, as part of the Union delegation, in meetings** ~~One or more Member States may request that the Commission representative be accompanied, as part of the Union delegation, by a representative of that or those Member States in a meeting of the Partnership Council and~~ **of** other joint bodies established **under the Trade and Cooperation Agreement** ~~by the Agreement.~~
- ~~(5) It is appropriate to authorise the Commission, pursuant to Article 218(7) TFEU, to approve on the Union's behalf certain modifications to the Trade and Cooperation Agreement that are to be adopted by a simplified procedure or by a body set up by the Trade and Cooperation Agreement in accordance with the provisions of that agreement. The procedure of consultation of the Council regarding such modifications should be established.~~

~~(6) Furthermore, in order to allow the Union to timely react where relevant conditions are no longer met, the Commission should be empowered to take certain decisions suspending benefits granted to the United Kingdom under the Annex TBT-4 [on Organic Products] and Annex TBT-2 [on Medicinal Products]. Prior to doing so, the Commission should inform the representatives of the Member States, who may object to the position presented by the Commission by a blocking minority. The Commission should also be empowered to adopt, in accordance with the same procedure, any other necessary implementing arrangements for the effective functioning of those Annexes.~~

(76) With a view to **enabling** enable the Union to take rapid and effective action to protect its interests in accordance with the Trade and Cooperation Agreement, and until a specific legislative act regulating the adoption of remedial measures under the Trade and Cooperation Agreement is adopted and enters into force in the Union, the Commission should be empowered to take remedial measures, such as the suspension of obligations under the Trade and Cooperation Agreement or any supplementing agreement, in cases of breaches of certain provisions of the Trade and Cooperation Agreement or non-fulfilment of certain conditions, **in particular with regard to** trade in goods, **the** level playing field, road transport, air transport, fisheries and Union programmes, as specified in the Trade and Cooperation Agreement, as well as to take ~~appropriate~~ remedial measures, rebalancing measures and countermeasures. **The Commission should fully inform the Council in a timely manner of its intention to adopt such measures with a view to allowing a meaningful exchange of views in the Council. The Commission should take the utmost account of the views expressed. One or more Member States may request the Commission to adopt such measures. If the Commission does not respond positively to such a request, it should inform the Council in a timely manner of its reasons.**

- (7) In order to allow the Union to react in a timely manner where relevant conditions are no longer met, the Commission should be empowered to take certain decisions suspending benefits granted to the United Kingdom under the Annex on Organic Products and the Annex on Medicinal Products. The Commission should fully inform the Council in a timely manner of its intention to adopt such measures with a view to allowing a meaningful exchange of views in the Council. The Commission should take the utmost account of the views expressed. One or more Member States may request the Commission to adopt such measures. If the Commission does not respond positively to such a request, it should inform the Council in a timely manner of its reasons.
- (8) Whenever the Union is required to act in order to comply with ~~the provisions of the~~ Agreements, such action is to be taken in accordance with ~~the provisions of the~~ Treaties, while respecting the limits of the powers conferred upon each Union institution. It is therefore for the Commission to provide the United Kingdom with the information or notifications required in the Agreements, except where the Agreements refer to other specific institutions, bodies, offices and agencies of the Union and to consult the United Kingdom on specific matters. It is also for the Commission to represent the Union before the arbitration tribunal where a dispute has been submitted to arbitration in accordance with the Trade and Cooperation Agreement. In compliance with the duty of sincere cooperation referred to in Article 4(3) TEU, the Commission is to consult the Council beforehand, for example by submitting to it the main points of the intended Union submissions to the arbitration tribunal and taking the utmost account of comments made by the Council.
- (9) The Trade and Cooperation Agreement does not exclude the possibility for Member States to enter into bilateral arrangements or agreements with the United Kingdom concerning specific matters covered by the Trade and Cooperation Agreement in the areas of air transport, administrative cooperation in the field of customs and VAT and social security under certain conditions.

- (10) It is therefore necessary to set out a framework to be followed by the Member States where they decide to enter into bilateral arrangements or agreements with the United Kingdom in the areas of air transport, administrative cooperation in the field of customs and VAT and social security, including the conditions and procedure for Member States to negotiate and conclude such bilateral arrangements or agreements, in such a way as to ensure that they are compatible with the purpose of the Trade and Cooperation Agreement and with Union law and take into account the internal market and broader Union interests. In addition, Member States which intend to negotiate and conclude bilateral agreements with the United Kingdom in areas not covered by the Trade and Cooperation Agreement should, in full respect of the principle of sincere cooperation, inform the Commission of their intentions and of the progress of the negotiations.**
- (911) It is recalled that, in accordance with Article FINPROV.1(3) of the Trade and Cooperation Agreement, and in line with the declaration of the European Council and of the European Commission on the territorial scope of future agreements included in the minutes of the European Council meeting of 25 November 2018,** ~~the negotiating directives of 25 February 2020, the territorial scope of the Trade and Cooperation Agreement concluded between the Union and the United Kingdom does not include Gibraltar.~~ **the Trade and Cooperation Agreement neither applies to Gibraltar nor has any effects in that territory. As foreseen in that declaration, ‘this does not preclude the possibility to have separate agreements between the Union and the United Kingdom in respect of Gibraltar’ and, ‘without prejudice to the competences of the Union and in full respect of the territorial integrity of its Member States as guaranteed by Article 4(2) of the Treaty on European Union, those separate agreements will require a prior agreement of the Kingdom of Spain’.** ~~This does not preclude the possibility to have separate agreements between the Union and the United Kingdom in respect of Gibraltar in line with the declaration of the European Council and of the European Commission included in the minutes of the European Council meeting of 25 November 2018.~~

- (12) The exercise of Union competence through the Trade and Cooperation Agreement is without prejudice to the respective competences of the Union and of the Member States in relation to any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country, or in relation to any future negotiations for, or signature or conclusion of, any supplementing agreements referred to in Article COMPROV.2 [Supplementing agreements] of the Trade and Cooperation Agreement.**
- (13) Due to the very late completion of the negotiations of the Agreements, it was not possible to proceed to the final legal-linguistic revision of the texts of the Agreements before their signature. Therefore, immediately after the signature of the Agreements, the Parties started the final legal-linguistic revision of the texts of the Agreements in all 24 authentic languages. Once the legal-linguistic revision is completed the Parties should, by exchange of diplomatic notes, establish those revised texts of the Agreements in all such languages as authentic and definitive. Those revised texts should replace *ab initio* the signed versions of the Agreements.**
- (14)** The conclusion of the Trade and Cooperation Agreement as regards matters falling under the competence of the European Atomic Energy Community (**'the Euratom Treaty'**) is subject to a separate procedure.
- (15)** The Agreements should be approved ~~on behalf of the Union,~~

HAS ADOPTED THIS DECISION:

Article 1

- 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, is hereby approved on behalf of the Union as regards matters other than those falling under the competence of the **Euratom Treaty**~~European Atomic Energy Community~~.¹
- 2.** 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 is hereby approved on behalf of the Union.²

~~The texts of these Agreements are attached to this Decision.~~

Article 2

- 1.** **The Commission shall represent the Union within the Partnership Council, Trade Partnership Committee, Trade Specialised Committees and Specialised Committees set up pursuant to Articles INST.1 [Partnership Council] and INST.2 [Committees] of the Trade and Cooperation Agreement, as well as in any additional Trade Specialised Committee or Specialised Committee that is established in accordance with point (g) of paragraph 4 of Article INST.1 [Partnership Council] or point (g) of paragraph 2 of Article INST.2 [Committees] of the Trade and Cooperation Agreement.**

Each Member State shall be allowed to send one representative to accompany the Commission representative, as part of the Union delegation, in meetings of the Partnership Council and of other joint bodies established under the Trade and Cooperation Agreement.

¹ **The text of the Agreement is published in ... *[insert OJ reference]*.**

² **The text of the Agreement is published in ... *[insert OJ reference]*.**

2. In order for the Council to be in a position to exercise fully its policy-making, coordinating and decision-making functions in accordance with the Treaties, in particular by establishing the positions to be taken on behalf of the Union within the Partnership Council, Trade Partnership Committee, Trade Specialised Committees and Specialised Committees, the Commission shall ensure that the Council receives all the information and documents related to any meeting of those joint bodies or to any acts to be adopted by written procedure sufficiently in advance of that meeting or that usage of written procedure, and in any case not later than eight working days prior to that meeting or that usage of written procedure.

The Council shall also be informed in a timely manner about the discussions and the outcome of the meetings of the Partnership Council, Trade Partnership Committee, Trade Specialised Committees and Specialised Committees and the usage of written procedure, and shall receive draft minutes and all documents relating to such meetings or usage of procedure.

3. The European Parliament shall be put in a position to exercise fully its institutional prerogatives throughout the process in accordance with the Treaties.

4. For a period of five years from 1 January 2021, the Commission shall report annually to the European Parliament and to the Council on the implementation and application of the Trade and Cooperation Agreement.

Article 3 [see Article 2]

~~1. When the Commission represents the Union in bodies created by the Trade and Cooperation Agreement, it shall inform the Council in a timely manner about the discussions and the outcome of the meetings and of acts adopted by written procedure, and, upon request, shall provide minutes and other documents relating to such meetings or procedure. The Commission shall also inform the European Parliament, as appropriate.~~

~~2. During the first five years after the entry into force of the Trade and Cooperation Agreement, the Commission shall report annually to the European Parliament and to the Council on the implementation and application of the Trade and Cooperation Agreement.~~

Article 3

- 1. Until a specific legislative act regulating the adoption of the measures listed in points (a) to (i) below enters into force in the Union, any decision by the Union to take such measures shall be taken by the Commission, in accordance with the conditions set out in the corresponding provisions of the Trade and Cooperation Agreement, as regards:**
- (a) the suspension of the relevant preferential treatment of the product(s) concerned as set out in Article GOODS.19 [Measures in case of breaches or circumvention of customs legislation] of the Trade and Cooperation Agreement;**
 - (b) the application of remedial measures and the suspension of obligations as set out in Article LPFOFCSD.3.12 [Remedial measures] of the Trade and Cooperation Agreement;**
 - (c) the application of rebalancing measures and countermeasures as set out in Article LPFOFCSD.9.4 [Rebalancing] of the Trade and Cooperation Agreement;**
 - (d) the application of remedial measures as set out in Article ROAD.11 [Remedial measures] of the Trade and Cooperation Agreement;**
 - (e) compensatory measures as set out in Article FISH.9 [Compensatory measures in case of withdrawal or reduction of access] of the Trade and Cooperation Agreement;**
 - (f) the application of remedial measures as set out in Article FISH.14 [Remedial measures and dispute resolution] of the Trade and Cooperation Agreement;**

- (g) the suspension or termination of the participation of the United Kingdom in Union programmes, as set out in Article UNPRO.3.1 [Suspension of the participation of the United Kingdom in a Union programme by the European Union] and Article UNPRO.3.20 [Termination of the participation of the United Kingdom in a Union programme by the European Union] of the Trade and Cooperation Agreement;**
- (h) an offer or acceptance of temporary compensation or the suspension of obligations in the context of compliance following an arbitration or panel of experts procedure under Article INST.24 [Temporary Remedies] of the Trade and Cooperation Agreement, except as provided in Regulation (EU) No 654/2014 of the European Parliament and of the Council¹;**
- (i) the safeguard measures and rebalancing measures as set out in Article INST.36 [Safeguard measures] of the Trade and Cooperation Agreement.**

2. The Commission shall fully inform the Council in a timely manner of its intention to adopt measures referred to in paragraph 1 with a view to allowing a meaningful exchange of views in the Council. The Commission shall take the utmost account of the views expressed. The Commission shall also inform the European Parliament, as appropriate.

3. Where there is a particular concern of one or more Member States, that or those Member States may request the Commission to adopt measures referred to in paragraph 1. If the Commission does not respond positively to such a request, it shall inform the Council in a timely manner of its reasons.

¹ Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (OJ L 189 27.6.2014, p. 50).

4. The Commission may also adopt measures reinstating the rights and obligations under the Trade and Cooperation Agreement as they existed prior to the adoption of measures referred to in paragraph 1. Paragraphs 2 and 3 shall apply mutatis mutandis.
5. Before a specific legislative act regulating the adoption of the measures referred to in paragraph 1 is adopted, the Council shall conduct a review of the arrangements set out in this Article.

Article 4

Where one or more Member States raise a substantial difficulty resulting from the implementation of the Trade and Cooperation Agreement, in particular with regard to fisheries, the Commission shall examine that request as a matter of priority and shall seize as appropriate the Partnership Council of that matter, in accordance with the provisions set out in the Trade and Cooperation Agreement. Where no satisfactory solution has been found, that matter shall be addressed within the earliest possible timeframe, in the context of the reviews provided for in the Trade and Cooperation Agreement. Where that difficulty persists, the necessary steps shall be taken with a view to negotiating and concluding an agreement making the necessary amendments to the Trade and Cooperation Agreement.

Article 4

1. ~~The Commission shall be authorised to approve, on behalf of the Union, modifications to the Trade and Cooperation Agreement to be adopted by the Partnership Council or the Specialised Committees as the case may be, in accordance with the following provisions of that agreement:~~
- (a) ~~paragraphs 4, 5 and 8 of Article TBT.9 [Cooperation on market surveillance and non-food product safety and compliance], as regards the establishment of or the amendments to the arrangements for the regular exchange of information between the Parties set out in Annexes [TBT-XX] and [TBT-ZZ];~~

- (b) ~~paragraph 3 of Article 2 [Product definitions, oenological practices and processes] and paragraph 3 of Article 3 [Certification requirements on import in the respective territories of the Parties] of Annex TBT-5 [Trade in Wine], as regards amendments of the Appendices to that Annex;~~
- (e) ~~paragraph 2 of Article 1 [Objective and scope] of Annex TBT-4 [Organic Products], as regards amendments of the Appendices to that Annex;~~
- (d) ~~Article 11 [Amendments to appendices] of Annex TBT-2 [Medicinal Products], as regards amendments of the Appendices to that Annex;~~
- (e) ~~Article PPROC.18 [Amendment of Section B of ANNEX.PPROC-1], as regards amendments to Section B of Annex PPROC-1 on market access commitments;~~
- (f) ~~Article AVSAF.12 [Adoption and amendments of annexes to this Chapter], as regards amendments to Annex AVSAF-1 or to other annexes as provided in that Article;~~
- (g) ~~paragraph 3 of Article LAW.EUROPOL.48 [Forms of crime], as regards amendments to ANNEX LAW-3, where the list of forms of crime for which Europol is competent under Union law is changed;~~
- (h) ~~paragraph 3 of Article LAW.EUROJUST.63 [Forms of crime], as regards amendments to ANNEX LAW-4, where the list of forms of crime for which Eurojust is competent under Union law is changed;~~
- (i) ~~Article SSC.68 [Amendments] of the Protocol on Social Security Coordination, as regards amendments to any of the Annexes or Appendices to the Protocol on Social Security Coordination.~~

~~2.—The Commission shall submit the proposed modifications specified in paragraph 1 to the Council before their approval.~~

~~The Commission shall approve those proposed modifications on behalf of the Union unless, within one month after the Commission has submitted them to the Council, a number of Member States representing a blocking minority of the Council in accordance with Article 16(4) of the Treaty on European Union object to them. If there is such an objection, the Commission shall reject the proposed modifications on behalf of the Union.~~

~~3.—The Commission shall approve, on behalf of the Union, modifications to the Trade and Cooperation Agreement to be adopted by the Partnership Council or the Specialised Committees as the case may be, in accordance with the following provisions of that agreement:~~

- ~~(a) paragraph 4 of Article LPFOFCSD.3.2 [Scope and exceptions], as regards the threshold under which the Chapter on subsidy control does not apply;~~
- ~~(b) paragraph 2 of Article LPFOFCSD.3.3 [Services of public economic interest], as regards the threshold under which the transparency obligation does not apply;~~
- ~~(c) paragraph 3 of Article LPFOFCSD.3.3 [Services of public economic interest], as regards the threshold under which the Chapter does not apply~~
- ~~(d) Article LPFOCDSD.3.5 [Prohibited subsidies and subsidies subject to conditions], as regards the updating of the conditions to be applied to subsidies under this Article;~~
- ~~(e) Article LPFOCDSD.3.11 [Recovery], as regards different arrangements to ensure recovery of subsidies.~~

~~The Commission shall inform the Council of the proposed modifications before their approval.~~

~~4. The Commission shall ensure that the approval on behalf of the Union of the proposed modifications set out in this Article:~~

- ~~(a) is in the interests of the Union;~~
- ~~(b) serves the objectives pursued by the Union within the framework of its trade policy, aviation safety, social security and law enforcement and judicial cooperation;~~
- ~~(c) is not contrary to Union law or international law;~~
- ~~(d) avoids creating obstacles to innovation.~~

Article 5

1. The Commission shall be authorised to take, on behalf of the Union, any decision to:
 - (a) confirm or suspend the recognition of equivalence following the reassessment of equivalence to be carried out by 31 December 2023 in accordance with paragraph 3 of Article 3 [Recognition of equivalence] of Annex TBT-4 [Organic Products] **to the Trade and Cooperation Agreement;**
 - (b) suspend the recognition of equivalence in accordance with paragraphs 5 and 6 of Article 3 [Recognition of equivalence] of Annex TBT-4 [Organic Products] **to the Trade and Cooperation Agreement;**
 - (c) accept official Good Manufacturing Practice documents issued by an authority of the United Kingdom for manufacturing facilities located outside the territory of the issuing authority and to determine the terms and conditions under which the Union accepts those official Good Manufacturing Practice documents in accordance with paragraphs 3 and 4 of Article 5 [Recognition of inspections] of Annex TBT-2 [Medicinal Products] **to the Trade and Cooperation Agreement;**

- (d) adopt any necessary implementing arrangements for the exchange of official Good Manufacturing Practice documents with ~~the~~ an authority of the United Kingdom under Article 6 [Exchange of official GMP documents] of Annex TBT-2 [~~on~~ Medicinal Products] **to the Trade and Cooperation Agreement** and for the exchange of information with ~~the~~ an authority of the United Kingdom regarding inspections of manufacturing facilities under Article 7 [Safeguards] of that Annex TBT-2 [~~Medicinal Products~~];
- (e) suspend recognition of inspections or acceptance official Good Manufacturing Practice documents issued by the United Kingdom and notify the United Kingdom of its intention to apply Article 9 [Suspension] of Annex TBT-2 [Medicinal Products] **to the Trade and Cooperation Agreement** and enter into consultations with the United Kingdom in accordance with paragraph 3 of Article 8 [Changes to the applicable legislation] of that Annex TBT-2 [~~Medicinal Products~~];
- (f) suspend totally or partially, for all or some of the products listed in Appendix C to Annex TBT-2 [on Medicinal Products] **to the Trade and Cooperation Agreement**, the recognition of inspections and acceptance of official Good Manufacturing Practice documents of the other Party in accordance with paragraph 1 of Article 9 [Suspension] of that Annex TBT-2 [~~Medicinal Products~~].

2. ~~The Commission shall take those proposed decisions in accordance with the procedure laid down in Article 4(2) of this Decision.~~ **Paragraphs 2, 3 and 4 of Article 3 shall apply.**

Article 6 [see Article 3]

1. — ~~Until a specific legislative act regulating the adoption of such measures is adopted and enters into force in the Union, the decision of the Union to take the following measures under the Trade and Cooperation Agreement shall be taken by the Commission in accordance with the conditions set out in the corresponding provisions of the Trade and Cooperation Agreement as regards:~~
- ~~(a) — the suspension of the relevant preferential treatment of the product(s) concerned as set out in Article GOODS.19 [Measures in case of breaches or circumvention of customs legislation];~~
 - ~~(b) — the application of remedial measures and the suspension of obligations as set out in Article LPFOFCSD.3.12 [Remedial measures];~~
 - ~~(c) — the application of rebalancing measures and counter measures as set out in Article LPFOFCSD.9.4 [Rebalancing];~~
 - ~~(d) — the application of remedial measures as set out in Article ROAD.11 [Remedial measures];~~
 - ~~(e) — the refusal, revocation, suspension or limitation of operating authorisation of an airline, Article AIRTRN.8 [Refusal, revocation, suspension or limitation of operating authorisation];~~
 - ~~(f) — the application of remedial measures as set out in Article FISH.14 [Remedial measures and dispute resolution];~~
 - ~~(g) — compensatory measures as set out in Article FISH.9 [Compensatory measures in case of withdrawal or reduction of access]~~

- (h) ~~the suspension or termination of the participation of the United Kingdom in Union programmes, as set out in Article UNPRO.3.1 [Suspension of the participation of the United Kingdom in a Union programme by the European Union] and Article UNPRO.3.20 [Termination of the participation of the United Kingdom in a Union programme by the European Union];~~
- (i) ~~an offer or acceptance of temporary compensation or the suspension of obligations in the context of compliance following an arbitration or panel of experts procedure under Article INST.24 [Temporary Remedies], except as provided in Regulation (EU) No 654/2014;~~
- (j) ~~the safeguard measures and rebalancing measures as set out in Article INST.36 [Safeguard measures].~~

2. ~~The Commission shall fully inform the Council in a timely manner of its intention to adopt the proposed measures set out in paragraph 1 and take into account the possible views expressed. The Commission shall also inform the European Parliament, as appropriate.~~

3. ~~The Commission may also adopt measures reinstating the rights and obligations under the Trade and Cooperation Agreement as they existed prior to the adoption of measures foreseen in paragraph 1.~~

Article 6

1. The Member States are empowered to negotiate, sign and conclude the arrangements referred to in paragraph 4 of Article AIRTRN.3 [Traffic rights] of the Trade and Cooperation Agreement, subject to the following conditions:

(a) those arrangements shall be entered into solely for the purpose laid down in paragraph 4 of Article AIRTRN.3 [Traffic rights] of the Trade and Cooperation Agreement and in accordance with its terms, and shall not govern any other matters whether or not such matters fall within the scope of Title I of Heading Two of Part Two [Air transport] of the Trade and Cooperation Agreement;

(b) those arrangements shall not discriminate between Union air carriers.

The procedure set out in Article 8 of this Decision shall apply.

2. The Member States are empowered to grant the authorisations referred to in paragraph 9 of Article AIRTRN.3 [Traffic rights] of the Trade and Cooperation Agreement subject to its terms and in accordance with the applicable provisions of Union and national law. In granting those authorisations, the Member States shall not discriminate between Union air carriers.

3. The Member States are empowered to negotiate, sign and conclude the arrangements referred to in paragraph 9 of Article AIRTRN.3 [Traffic rights] of the Trade and Cooperation Agreement, subject to the following conditions:

(a) those arrangements shall be entered into solely for the purpose laid down in paragraph 9 of Article AIRTRN.3 [Traffic rights] of the Trade and Cooperation Agreement and in accordance with its terms, and shall not govern any other matters whether or not such matters fall within the scope of Title I of Heading Two of Part Two [Air Transport] of the Trade and Cooperation Agreement;

(b) those arrangements shall not discriminate between Union air carriers.

The procedure set out in Article 8 of this Decision shall apply.

Article 7

The Member States are empowered to negotiate, sign and conclude bilateral agreements with the United Kingdom in accordance with Article 41 of the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties or in the area of social security coordination as regards subject matters not covered by the Protocol on Social Security Coordination, subject to the following conditions:

- (a) the envisaged agreement shall be compatible with, and shall not undermine, the functioning of the Trade and Cooperation Agreement or of the internal market;
- (b) the envisaged agreement shall be compatible with Union law, and shall not put at risk the attainment of an objective of the Union's external action in the area concerned or otherwise be prejudicial to the Union's interests;
- (c) the envisaged agreement shall comply with the principle of non-discrimination on grounds of nationality enshrined in the TFEU.

The procedure set out in Article 8 of this Decision shall apply.

Article 8

1. Each Member State that intends to negotiate a bilateral arrangement as referred to in Article 6(1) and (3) or a bilateral agreement as referred to in Article 7 shall keep the Commission informed of the negotiations with the United Kingdom on such arrangements or agreements and, where appropriate, invite the Commission to participate in the negotiations as an observer.

2. Upon completion of the negotiations, the Member State concerned shall submit the resulting draft arrangement or agreement to the Commission. The Commission shall inform the European Parliament and the Council thereof without delay.
3. No later than three months from the receipt of the draft arrangement or agreement, the Commission shall take a decision as to whether the conditions set out in the first subparagraph of, respectively, Article 6(1) or (3) or Article 7 are fulfilled. If the Commission decides that those conditions are fulfilled, the Member State concerned may sign and conclude the arrangement or agreement in question.
4. The Member State concerned shall provide the Commission with a copy of the arrangement or agreement within one month of its entry into force or, where the arrangement or agreement is to be applied provisionally, within one month of the start of its provisional application.

Article 9

The Member States which intend to negotiate and conclude bilateral agreements with the United Kingdom in areas not covered by the Trade and Cooperation Agreement shall, in full respect of the principle of sincere cooperation, inform the Commission in due time of their intentions and of the progress of the negotiations.

Article 10

The exercise of Union competence through the Trade and Cooperation Agreement shall be without prejudice to the respective competences of the Union and of the Member States in any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country, or in relation to any future negotiations for, or signature or conclusion of, any supplementing agreements referred to in Article COMPROV.2 [Supplementing agreements] of the Trade and Cooperation Agreement.

Article 11

- 1. The versions of the Agreements in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages shall be subject to final legal-linguistic revision.**

The language versions resulting from the legal-linguistic revision referred to in the first subparagraph shall be established as authentic and definitive by exchange of diplomatic notes with the United Kingdom.

The authentic and definitive texts referred to in the second subparagraph shall replace *ab initio* the signed versions of the Agreements.

- 2. The President of the Council, on behalf of the Union, shall submit the diplomatic note referred to in the second subparagraph of paragraph 1.**

Article 12

The President of the Council, **on behalf of the Union, shall** ~~is hereby authorised to designate the person(s) empowered to proceed, on behalf of the Union, to give the notification(s) provided for in the~~ **Trade and Cooperation Agreement, including the notification on the completion of internal requirements and procedures for establishing the consent to be bound, and in Article 19(1) of the Security of Information Agreement.** ~~following provisions:~~

~~(a) — with regard to the Trade and Cooperation Agreement:~~

~~—— Article LAW.OTHER.134 [Notifications];~~

~~Article FINPROV.11 [Entry into force].~~

~~Article SSC.11 of the Protocol on Social Security Coordination;~~

~~(b) with regard to the Agreement concerning security procedures for exchanging and protecting classified information:~~

~~– Article 19, paragraphs 1 and 2.~~

Article ~~7~~13

The declarations attached to this Decision shall be approved on behalf of the Union.

Article ~~7~~14

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

Done at Brussels,

For the Council

The President
