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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 March 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2025) 48 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties 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

Delegations will find attached document COM(2025) 48 final.

Encl.: COM(2025) 48 final



Brussels, 6.3.2025
COM(2025) 48 final

2025/0026 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties 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

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the European Union's behalf in the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties in connection with the envisaged adoption of the decisions for the implementation 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 ('the VAT Protocol'), as laid down in Article PVAT.39(2) 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' or TCA).

2. CONTEXT OF THE PROPOSAL

2.1. The EU-UK Trade and Cooperation Agreement

According to Article 120 TCA, the competent authorities of the Parties shall cooperate with each other to ensure compliance with VAT legislation and in recovering claims relating to taxes and duties in accordance with the VAT Protocol.

The objective of this Protocol is to establish the framework for administrative cooperation between the Member States and the United Kingdom, in order to enable their authorities to assist each other in ensuring compliance with VAT legislation and in protecting VAT revenue and in recovering claims relating to taxes and duties.

2.2. The Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties

According to Article 8(1)(k) TCA, the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties is established to address matters covered by the VAT Protocol.

According to Article PVAT.39(1), this Trade Specialised Committee shall hold regular consultations and review the operation and effectiveness of the VAT Protocol at least every 5 years. It shall also, according to Article PVAT.39(2), adopt decisions or recommendations to implement all aspects of the VAT Protocol.

2.3. The envisaged act of the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties

The purpose of the envisaged act is to adopt measures that are necessary to implement the VAT Protocol, as laid down in Article PVAT.39(2). Specifically, Article PVAT.39(2)(d) refers to the standard forms to be used for communication in administrative cooperation between the UK and the Member States.

The envisaged act will become binding on the Parties in accordance with Article 10 TCA.

In substance, the decision will cover the electronic forms to be used for the communication for administrative cooperation between the UK and the Member States.

The standard forms for the communications pursuant to Article PVAT.19(1) need adjustments to bring them in line with the Exchange of Forms (EoF) system referred to in Annex II to Commission Implementing Decision C(2019)2866, as last amended by Commission Implementing Decision C(2024)8903 of 19 December 2024.

Such change is necessary to establish an improved framework enabling both parties to benefit from the extensive range of tools currently used by the Member States for administrative cooperation and the recovery of claims. Therefore amendments are necessary to Decision No 4/2023¹, as already amended by Decision No 1/2024².

In order to facilitate possible further adjustments of the standard forms for the communications pursuant to Article PVTA.19(1) to bring them in line with the EoF system referred to above, it is appropriate to include a provision that foresees that those possible further adjustments could be approved by the Commission under the so-called “specification of a Union’s position” procedure.

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

The position to be taken by the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties should be established by the Council. The position refers to the adoption of a decision for the implementation of the VAT Protocol as provided for in Article PVAT.39(2). The initiative will result in improved VAT administrative cooperation.

The proposed procedure does not affect the substance as such of the TCA. Therefore, it does not require an impact assessment.

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.’

4.1.2. Application to the present case

The Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties is a body set up by an agreement, namely the TCA.

The acts which this Trade Specialised Committee is called upon to adopt constitute acts having legal effects. The envisaged acts will be binding under international law in accordance with Article 10 TCA.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

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

¹ Council Decision (EU) 2023/2408 of 16 October 2023 on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties 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 (OJ L, 2023/2408, 31.10.2023, ELI: <http://data.europa.eu/eli/dec/2023/2408/oj>).

² OJ L, 2024/2736, 24.10.2024, ELI: <http://data.europa.eu/eli/dec/2024/2736/oj>).

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.

4.2.2. Application to the present case

The main objective and content of the envisaged act relates to the implementation of the VAT Protocol, as laid down in Article PVAT.39(2). Since the provision concern harmonisation of indirect taxation, Article 113 TFEU is also applicable as legal basis.

4.3. Conclusion

The legal basis of the proposed decision should be Article 113 TFEU, in conjunction with Article 218(9) thereof.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties 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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113, 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 part¹ ('the Trade and Cooperation Agreement') was concluded by the Union and the European Atomic Energy Community on 30 December 2020 and entered into force on 1 May 2021.
- (2) The Trade and Cooperation Agreement and in particular its Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for recovery of claims relating to taxes and duties ('the Protocol') provides for a solid legal framework for cooperation with regard to the fight against fraud and the recovery of claims. Such cooperation will benefit from most of the tools currently used by the Member States for administrative cooperation and the recovery of claims.
- (3) The Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties ('the Trade Specialised Committee') established by the Trade and Cooperation Agreement is to make recommendations and adopt decisions, in order to ensure the proper functioning and implementation of the Protocol.
- (4) [During its [...] meeting,] [t]The Trade Specialised Committee is to adopt [a decision on] the procedure concerning the proper implementation and functioning of the Protocol and to lay down the standard forms for the communications.
- (5) It is appropriate to establish the position to be taken on the Union's behalf within the Trade Specialised Committee, as the decision laying down the standard forms for the communications will be binding on the Union.

¹ OJ L 149, 30.04.2021, p. 10, ELI: [http://data.europa.eu/eli/agree_internation/2021/689\(1\)/oj](http://data.europa.eu/eli/agree_internation/2021/689(1)/oj).

- (6) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) No 2018/1725 of the European Parliament and of the Council²,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties 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 that Trade Specialised Committee attached to this Decision.
2. The Council may approve a positive consideration to be expressed by the Commission on the Union's behalf of further adjustments of the standard forms for the communications pursuant to Article PVAT.19(1) necessary to bring them in line with the Exchange of Forms (EoF) system referred to in Annex II of Commission Implementing Decision 2019/2866, as last amended by Commission Implementing Decision C(2024)8903 of 19 December 2024.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39–98).