



Council of the
European Union

Brussels, 17 May 2022
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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 May 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 215 final ANNEX
Subject:	ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Trade Specialised Committee on customs cooperation and rules of origin regarding the consultation laid down in Article 63(3) 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

Delegations will find attached document COM(2022) 215 final ANNEX.

Encl.: COM(2022) 215 final ANNEX



Brussels, 16.5.2022
COM(2022) 215 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the Trade Specialised Committee on customs cooperation and rules of origin regarding the consultation laid down in Article 63(3) 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

ANNEX

Draft

**DECISION No ... OF THE EU-UK TRADE SPECIALISED COMMITTEE
on customs cooperation and rules of origin**

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, concerning the consultation procedure in case of denial of preferences

THE TRADE SPECIALISED COMMITTEE on customs cooperation and rules of origin,

Having regard to the Trade and Cooperation Agreement establishing the relationship 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'), and in particular Article 63(3) thereto concerning the establishment of a consultation procedure in case of denial of preferences,

Whereas:

(1) The Trade and Cooperation Agreement establishing the relationship 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'), was concluded by Council Decision 2020/2252 of 29 December 2020 and entered into force on 1 May 2021.

(2) Article 121(2)(d) of the Agreement provides that the Trade Specialised Committee on customs cooperation and rules of origin ('the Committee') may adopt decisions or recommendations on the procedure for the consultation established in Article 63(3) of the Agreement.

(3) Article 63(3) of the Agreement provides that when the customs authority of the importing party notifies the customs authority of the exporting party of its intention to deny the preferential tariff treatment after the receipt of the opinion of the exporting party confirming the origin of the product, consultations shall be held at the request of either party within three months after the date of that notification, and may take place in accordance with the procedure set by the Committee.

(4) In accordance with Article 63(3) of the Agreement, procedural rules are to be established to facilitate an agreement between the parties in the case of denial of preferences against the opinion of the other party confirming the origin of the product.

HAS ADOPTED THIS DECISION:

Article 1

The Consultation referred to in Article 63(3) of the Agreement shall take place in accordance with the rules of procedure specified in the Annex to this decision.

Article 2

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

It shall apply from the same day.

Done at...

*For the Trade Specialised Committee
The EU Co-chair and the UK Co-chair*

ANNEX

PROCEDURE FOR CONSULTATIONS

IN ACCORDANCE WITH THE SECOND SUBPARAGRAPH OF ARTICLE 63(3) OF THE EU-UK TRADE AND COOPERATION AGREEMENT

Rule 1

1. After the customs authority of the importing party has notified the customs authority of the exporting party of its intention to deny the preferential tariff treatment, a party may submit a request for consultations to the other party pursuant to the second subparagraph of Article 63(3) of the EU-UK Trade and Cooperation Agreement ('the Agreement').
2. The request shall be made by the member of the Secretariat of the Trade Specialised Committee on customs cooperation and rules of origin ('the Committee') of the requesting party to the member of the secretariat of the other party by e-mail or, where appropriate, by any other means of [tele]communication that provides a record of the sending thereof. Unless proven otherwise, such request shall be deemed to be received on the date of its sending.

Rule 2

1. Consultations shall be convened and concluded within three months after the date of the notification of the intention referred to in Rule 1, unless the parties have agreed to extend the period for consultations. During that period, the parties may meet one or several times.
2. Consultations shall be held in person or by any other means of communication agreed by the parties. If held in person, consultations shall take place in the territory of the party to which the consultations requested are addressed, unless the parties agree otherwise.

Rule 3

15 calendar days in advance of each session of consultation, the Union and the United Kingdom respectively shall inform the other party via the Secretariat of the intended composition of their respective delegations and shall specify the name and function of each member of the delegation.

Rule 4

1. The consultation shall be held in English.
2. Written documents relevant for the consultation shall be circulated via the Secretariat to the other party. They may be in any of the official languages of the Union.

Rule 5

1. Draft minutes of each consultation session shall be drawn up by the official acting as member of the Secretariat of the respondent party hosting the meeting within 8 calendar days. The draft minutes shall be transmitted for comments to the member of the Secretariat of the other party. The latter may submit comments within 8 calendar days.
2. The minutes shall summarise the consultation sessions, specifying where applicable:
 - (a) the documents submitted;
 - (b) any statement that one of the parties requested to be entered in the minutes; and
 - (c) the conclusions reached which may include the extension of the duration of the consultation.
3. The minutes shall include as an annex a list of participants setting out for each of the delegations the names and functions of all individuals who attended the meeting.
4. The Secretariat shall adjust the draft minutes on the basis of the comments received. The draft minutes, as revised, shall be approved by the parties within 28 days of the date of the session, or by any other date agreed by the parties. Upon approval of the minutes, the agreement reached shall take effect between the parties at the session of consultations when that conclusion was adopted.
5. In the case that the consultations are held in writing, the result of the consultations shall be recorded in the minutes of the next meeting of the Committee. The agreement reached during the consultations shall take effect between the parties at the session of consultations when that conclusion was adopted.

Rule 6

1. The parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter within the period of consultation referred to in Rule 2. If the parties reach an agreement, this latter is binding on the parties.
2. For the purpose of the third subparagraph of Article 63(3) of the Agreement, the period of consultation referred to in Rule 2 shall be considered expired when it arrives at its term and the Parties do not agree to extend it, except when the consultation was not held for causes attributable to the importing party.