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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 8760/21 INIT
No. Cion doc.:	COM(2021) 228 final
Subject:	Draft Council Decision authorising the opening of negotiations on an agreement between the European Union and United Kingdom of Great Britain and Northern Ireland on cooperation and exchange of information in competition matters - Presidency compromise proposal

Delegations will find attached a draft Council Decision authorising the opening of negotiations on an agreement between the European Union and United Kingdom of Great Britain and Northern Ireland on cooperation and exchange of information in competition matters.

The amendments suggested by the Chair of the Working Party on the UK are marked as **bold underline** and ~~striketrough~~ as compared to the original Commission recommendation set out in document ST 8760/21 INIT. New text is highlighted in yellow.

Delegates are invited to raise any objections they may have by 10 May 2023. If no objections are raised, the file will be taken forward for adoption as soon as possible after legal-linguistic review.

Recommendation for a DRAFT

COUNCIL DECISION (EU, 2021/...)

of ...

**authorising the opening of negotiations on an agreement between the European Union and
United Kingdom of Great Britain and Northern Ireland on cooperation and
exchange of information in competition matters**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Articles 103 and 352, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation 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 (the ‘Trade and Cooperation Agreement’) was concluded by the Union by means of Council Decision (EU) 2021/689⁵ and entered into force on 1 May 2021, having been provisionally applied since 1 January 2021. On 29 December 2020, the Council adopted Decision (EU) 2020/2252¹ 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

¹ Council Decision (EU) 2020/2252 of 29 December 2020 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 L 444, 31.12.2020, p. 2).

of Information Agreement'). The Trade and Cooperation Agreement and the Security of Information Agreement were signed on 30 December 2020, subject to their conclusion at a later date.

(2) On 29 April 2021, the Council adopted Council Decision 2021/689² on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement and the Security of Information Agreement ('the Agreements'). The Agreements entered into force on 1 May 2021.

(3) Following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, the cooperation and information exchange possibilities with the UK competition authority in the context of the European Competition Network (ECN), where the European Commission and the national competition authorities of the Member States (NCAs) closely cooperate with each other, no longer exist.

(4) The Trade and Cooperation Agreement does not create such close cooperation and only allows for cooperation in the field of competition that is permitted under domestic rules. Article 361, paragraph 4 of the Trade and Cooperation Agreement acknowledges, however, the possibility for an agreement between the Parties on cooperation and coordination between the European Commission, the competition authorities of the Member States and the United Kingdom's competition authority or authorities, which agreement may include conditions for the exchange and use of confidential information.

² 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 information (OJ L 149, 30.04.2021, p. 2).

(5) ~~N~~egotiations should **therefore** be opened with a view to concluding ~~an agreement~~
supplementing agreement within the meaning of Article 2 of the Trade and Cooperation
Agreement, with the United Kingdom of Great Britain and Northern Ireland on cooperation
and exchange of information in competition matters,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to ~~negotiate, on behalf of the Union, with the United~~
~~Kingdom of Great Britain and Northern Ireland,~~ **open negotiations for a supplementing**
agreement within the meaning of Article 2 of the Trade and Cooperation Agreement ~~an~~
~~agreement~~ on cooperation and exchange of information in competition matters.

Article 2

The Commission is hereby nominated as the Union negotiator.

Article 2

~~The negotiating directives are set out in the annex to this decision.~~

Article 3

The negotiations shall be conducted in consultation with the ~~[name of the special committee to be~~
~~inserted by the Council]~~ **Working Party on the United Kingdom and in accordance with the**
directives contained in the addendum, subject to any directives which the Council may
subsequently issue to the Commission.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President