



EUROPEAN
COMMISSION

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2026/0224 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards a joint declaration on the application of Article 5 of the Windsor Framework

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community¹ ('the Withdrawal Agreement') as regards a joint declaration of the Union and the United Kingdom within the Joint Committee on the application of Article 5 of the Windsor Framework², which forms an integral part of the Withdrawal Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Windsor Framework

The Withdrawal Agreement sets out the arrangements for the orderly withdrawal of the United Kingdom from the Union and Euratom. The Withdrawal Agreement entered into force on 1 February 2020. On 27 February 2023, the European Commission and the Government of the United Kingdom reached a political agreement in principle on the Windsor Framework. On 24 March 2023, the Joint Committee established by the Withdrawal Agreement adopted the new arrangements relating to the Windsor Framework. The two Parties agreed to fully, timely and faithfully implement the Windsor Framework.

2.2. The Joint Committee

The Joint Committee established under Article 164(1) of the Withdrawal Agreement comprises representatives of the Union and of the United Kingdom. It is co-chaired by the Union and the United Kingdom. Annex VIII to the Withdrawal Agreement lays down the rules of procedure of the Joint Committee. The Joint Committee meets at least once a year or at the request of the Union or the United Kingdom and it sets its meeting schedule and agenda by mutual consent. In accordance with Article 166(3) of the Withdrawal Agreement, the Joint Committee adopts its decisions by mutual consent.

The tasks of the Joint Committee are laid down in Article 164 of the Withdrawal Agreement and consist principally of:

- overseeing the implementation and application of the Agreement directly or through the work of the specialised committees reporting to it;
- adopting decisions and recommendations, including amendments to the Agreement in the cases provided therein;
- preventing problems and resolving disputes that may arise regarding the interpretation and application of the Agreement.

2.3. The envisaged act of the Joint Committee

During its next meeting, the Union and the United Kingdom are to make a joint declaration on the application of Article 5 of the Windsor Framework ('the envisaged act').

¹ OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.

² Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 ([OJ L 102, 17.4.2023, p. 87](#)).

The purpose of the envisaged act is to clarify that the provisions of Article 5 of the Windsor Framework which are related to the payment, collection and remittance of customs duties for goods which are brought by direct transport into Northern Ireland from another part of the United Kingdom or from a territory other than the Union or another part of the United Kingdom and which are, respectively, at risk or not at risk of subsequently being moved to the Union, are also applicable to a handling fee established by Union law to cover the costs of the services provided for handling a request for release of goods sold in a distance sale for free circulation.

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

3.1. Article 5 of the Windsor Framework

Article 5(1) of the Windsor Framework provides that no customs duties shall be payable for a good brought by direct transport into Northern Ireland from another part of the United Kingdom and which is not at risk of subsequently being moved to the Union, whether by itself or forming part of another good following processing. It also provides that the customs duties in respect of a good brought by direct transport into Northern Ireland other than from the Union or from another part of the United Kingdom and which is not at risk of subsequently being moved to the Union, whether by itself or forming part of another good following processing, shall be the duties applicable in the United Kingdom.

The purpose of this provision is to ensure that no good which is brought by direct transport into Northern Ireland and which is not at risk of subsequently being moved to the Union, whether by itself or forming part of another good following processing, should be subject to any financial charges laid down by Union customs law that are directly related to the release for free circulation of such good in Northern Ireland.

In this context, it is necessary to clarify by way of a joint declaration to be issued by the Union and by the United Kingdom in the framework of the Joint Committee that Article 5(1) of the Windsor Framework should be understood as also applying to a handling fee established by Union law to cover the costs of the services provided for handling a request for release of goods sold in a distance sale for free circulation, in particular by checking the data provided, carrying out risk analysis, performing documentary and physical controls when needed.

In addition, Article 5(6) of the Windsor Framework provides that where customs duties are levied by the United Kingdom in accordance with the relevant Union customs legislation, these duties are not remitted to the Union. That provision thus pursues the objective of ensuring that the proceeds of any financial charges laid down by Union customs law that are directly related to the release for free circulation of goods in Northern Ireland remain with the United Kingdom. In this context, the envisaged joint declaration clarifies that Article 5(6) of the Windsor Framework should be understood as also applying in its entirety to the proceeds of a handling fee of the nature referred to in the previous paragraph.

4. LEGAL BASIS

4.1. Procedural legal basis

The Joint Committee is a body set up by an agreement, namely the Withdrawal Agreement.

The envisaged act constitutes an act having legal effects, within the meaning of Article 218(9) TFEU.

The envisaged act does not supplement or amend the institutional framework of the Withdrawal Agreement.

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

4.2. Substantive legal basis

The main objective and content of the envisaged act relate to clarifying the joint interpretation by the Union and by the United Kingdom regarding the application of Article 5 of the Windsor Framework, which forms an integral part of the Withdrawal Agreement.

The conclusion of the Withdrawal Agreement was based on Article 50(2) TEU.

Therefore, the substantive legal basis of the proposed decision is Article 50(2) TEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 50(2) TEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

In the interest of legal certainty and transparency, it is appropriate to publish the joint declaration of the Union and the United Kingdom in the *Official Journal of the European Union* after it has been made within the Joint Committee.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50(2) thereof, in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community³ (the ‘Withdrawal Agreement’) was concluded by the Union by means of Council Decision (EU) 2020/135⁴.
- (2) In accordance with Article 182 of the Withdrawal Agreement, the Windsor Framework⁵ forms an integral part of that Agreement.
- (3) The Union and the United Kingdom, during the next meeting of the Joint Committee, are to make a joint declaration on the application of Article 5 of the Windsor Framework.
- (4) The purpose of the joint declaration is to clarify that the provisions of Article 5 of the Windsor Framework which are related to the payment, collection and remittance of customs duties for goods which are brought by direct transport into Northern Ireland from another part of the United Kingdom or from a territory other than the Union or another part of the United Kingdom and which are, respectively, at risk or not at risk of subsequently being moved to the Union, are also applicable to a handling fee established by Union law to cover the costs of the services provided for handling a request for release of goods sold in a distance sale for free circulation.

³ OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign.

⁴ Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1, ELI: <http://data.europa.eu/eli/dec/2020/135/oj>).

⁵ Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 ([OJ L 102, 17.4.2023, p. 87](#)).

- (5) The envisaged joint declaration of the Union and the United Kingdom will, if made within the Joint Committee, constitute an act having legal effects, within the meaning of Article 218(9) TFEU.
- (6) It is therefore necessary to establish the position to be taken within the Joint Committee with regard to the joint declaration of the Union and the United Kingdom within the Joint Committee on the application of Article 5 of the Windsor Framework,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Joint Committee established under Article 164(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Joint Committee') shall be based on the draft joint declaration of the Union and the United Kingdom attached to this Decision.

Article 2

Minor technical changes to the position set out in the draft joint declaration of the Union and the United Kingdom attached to this Decision may be agreed upon without a further decision of the Council.

Article 3

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

Done at Brussels,

*For the Council
The President*