EU/Euratom/UK Trade and Cooperation Agreement and EU/UK Agreement concerning security procedures for exchanging and protecting classified information

2020/0382(NLE) - 25/12/2020 - Preparatory document

PURPOSE: to conclude the EU/Euratom/United Kingdom Trade and Cooperation Agreement and the EU /United Kingdom Agreement on security procedures for exchanging and protecting classified information.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 30 January 2020, following the approval of the European Parliament, the Council adopted Decision (EU) 2020/135 on the conclusion of the Agreement on the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community. The withdrawal agreement entered into force on 1 February 2020 and provides for a transitional period during which Union law applies to the United Kingdom and on its territory in accordance with the agreement. This period will end on 31 December 2020.

On 25 February 2020, the Council adopted Decision (EU, Euratom) 2020/266 authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland on a new partnership agreement. The Commission was appointed as the Union's negotiator.

On 24 December 2020, negotiations were concluded and the Parties agreed on the Trade and Cooperation Agreement and on the Agreement on security procedures for the exchange of classified information and its protection.

CONTENT: the draft Trade and Cooperation Agreement and the Security of Information Agreement fully respect the Treaties and preserve the integrity and the autonomy of the Union legal order. These agreements will not require the EU to amend its rules, regulations or standards in any regulated area. They promote the values, objectives, and interests of the Union, and ensure the consistency, effectiveness and continuity of its policies and actions.

The envisaged partnership is based on the recognition of democracy, the rule of law and human rights, as well as the fight against climate change and the proliferation of weapons of mass destruction. Failure to comply with any of these essential elements shall entitle the Parties to terminate or suspend the application of the Trade and Cooperation Agreement or any supplementary agreement, in whole or in part. The Parties also affirm their willingness to ensure a high level of protection of personal data.

The draft Trade and Cooperation Agreement consists of three main pillars:

Comprehensive and balanced free trade agreement

The draft agreement:

- covers not just trade in goods and services, but also a broad range of other areas in the EU's interest, such as investment, competition, State aid, tax transparency, air and road transport, energy and sustainability, fisheries, data protection, and social security coordination;

- provides for zero tariffs and zero quotas on all goods that comply with the appropriate rules of origin;

- ensures a strong level playing field: all imports from the UK should comply with EU rules and regulations (e.g. technical rules and product standards, sanitary and phytosanitary rules, food and safety regulations, health and safety standards, environmental and consumer protection rules);

- establishes a new framework for the joint management of fish stocks in their respective waters;

- ensures a number of rights of EU citizens and UK nationals. This concerns EU citizens working in, travelling or moving to the UK and to UK nationals working in, travelling or moving to the EU after 1st January 2021;

- enables the UK's continued participation in a number of flagship EU programmes for the period 2021-2027 (subject to a financial contribution by the UK to the EU budget), such as Horizon Europe.

A new partnership for security

The draft agreement establishes a framework for law enforcement and judicial cooperation in criminal matters. It recognises the need for close cooperation between national law enforcement and judicial authorities and EU agencies and bodies, in particular as regards the fight against and prosecution of cross-border crime and terrorism. It respects the status of the United Kingdom as a non-member of the EU outside the Schengen area.

Police and judicial cooperation is based on guarantees of respect for democracy and the rule of law, and effective protection of fundamental rights and freedoms of individuals, including those enshrined in the European Convention on Human Rights. There are specific provisions on the suspension of cooperation in the event of serious and systemic failures in the implementation of any of these safeguards, as well as a specific dispute settlement mechanism.

A horizontal agreement on governance

The governance provisions clarify how the Trade and Cooperation Agreement should be implemented and monitored.

The Agreement provides for the possibility for the Parties to take swift, autonomous and operational measures to protect their interests, in particular in the areas of the level playing field (i.e. rebalancing measures, remedial measures) and fisheries (i.e. compensatory measures, remedial measures), as well as, more generally, in cases of serious economic, societal or environmental difficulties of a sectorial or regional nature.

The Partnership Council, composed of representatives of the Union and the United Kingdom at ministerial level, should monitor the implementation of the agreement.

Security for the exchange of information

The draft supplementary agreement on security procedures for the exchange of classified information and its protection sets out rules and modalities for the exchange of classified and unclassified sensitive information. It guarantees the secure treatment of sensitive information, based on the principle of the originator’s consent prior to the release of the information exchanged.