



EUROPEAN  
COMMISSION

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Recommendation for a

## **COUNCIL DECISION**

**authorising the opening of negotiations between the European Union and the United Kingdom of Great Britain and Northern Ireland on a common sanitary and phytosanitary area between the European Union and the United Kingdom in respect of Great Britain and to link the United Kingdom and the Union's greenhouse emissions trading systems**

## **EXPLANATORY MEMORANDUM**

### **1. 1. CONTEXT OF THE RECOMMENDATION**

#### **1.1. Reasons for and objectives of the recommendation**

On 1 February 2020, the United Kingdom of Great Britain and Northern Ireland ('the United Kingdom') withdrew from the European Union ('the Union') and from the European Atomic Energy Community ('Euratom'). The relationship is governed by two agreements:

- The Withdrawal Agreement.<sup>1</sup> The Protocol on Ireland/Northern Ireland – now referred to as the Windsor Framework<sup>2</sup>, forms an integral part of the Withdrawal Agreement.
- The Trade and Cooperation Agreement.<sup>3</sup>

On 19 May 2025, the European Union and the United Kingdom held their first summit and adopted a Joint Statement, reaffirming the commitment to the full, timely and faithful implementation of the Withdrawal Agreement, including the Windsor Framework, and the Trade and Cooperation Agreement. They welcomed a renewed agenda for EU-UK cooperation – Common Understanding<sup>4</sup>, agreed between the United Kingdom and the European Commission.

The Common Understanding was the result of exploratory talks, and it sets out the political agreement of a series of underlying parameters for the future work on agreements for a common sanitary and phytosanitary area and on the linking of the emissions trading systems, while recalling that the two sides would proceed swiftly on these undertakings in accordance with the respective procedures and legal frameworks.

#### **(a) Common Sanitary and Phytosanitary Area**

Since 1 January 2021, the Union and the United Kingdom are two separate sanitary and phytosanitary areas, with separate legislation and policies, except for the United Kingdom in respect of Northern Ireland where the Union's sanitary and phytosanitary rules apply by virtue of the Windsor Framework.

The Union has applied the rules of its sanitary and phytosanitary acquis, as well as relevant acquis on marketing standards and other requirements, including provisions on certification, controls and substantive requirements, applicable to movements from/to third countries, in respect of Great Britain since 1 January 2021. These controls include in particular documentary, identity and physical checks to ensure that goods comply with Union's health, safety and quality standards. The United Kingdom delayed the implementation of full border controls on entries from the Union several times. In January 2024, it started applying

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<sup>1</sup> 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. 7) ('Withdrawal Agreement').

<sup>2</sup> 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.

<sup>3</sup> 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 149, 30.4.2021, p. 10–2539) ('Trade and Cooperation Agreement')

<sup>4</sup> A renewed agenda for European Union – United Kingdom cooperation Common Understanding, [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_25\\_1267](https://ec.europa.eu/commission/presscorner/detail/en/statement_25_1267)

measures on imports from the Union that included sanitary and phytosanitary checks and certification, pre-notification of imports and documentary, identity and physical controls at the border, as well as significant inspection fees. Additional checks and controls were also announced but further delayed. In particular, on 2 June 2025, the government of the United Kingdom announced that controls of medium-risk fruits and vegetables would be postponed until January 2027 in view of the commitment taken during the Summit of 19 May 2025 between the European Union and the United Kingdom. Similarly, the United Kingdom postponed until 1 February 2027 the introduction of certification requirements and checks in relation to organics and marketing standards.

A common sanitary and phytosanitary area between the Union and the United Kingdom would facilitate trade in products subject to sanitary and phytosanitary or other relevant rules mentioned above. It would result in the vast majority of movements of animals, animal products, plants, and plant products between Great Britain and the Union being undertaken without the certificates or controls that are currently required or expected. It would have to ensure that it does not compromise the Union's internal market or its comprehensive approach to sanitary and phytosanitary risks as well as food standards. The agreement would thereby have to ensure a high level of protection against sanitary and phytosanitary risks as well as appropriate consumer protection in the Union and the United Kingdom.

**(b) Linking the United Kingdom and Union greenhouse gas emissions trading systems**

Since 1 January 2021, the Union and the United Kingdom have run separate greenhouse gas emissions trading systems, except for the United Kingdom in respect of Northern Ireland, where the Union greenhouse gas emissions trading system applies insofar as it relates to wholesale electricity markets in accordance with Article 9 of and Annex 4 to the Windsor Framework.

The greenhouse gas emissions trading systems of the Union and the United Kingdom share many common design features. However, the two systems started to diverge from 2021, for instance as regards to their scope (e.g., from 2024 the Union greenhouse gas emissions trading system covers domestic and international maritime transport and has a larger scope as concerns international aviation) and the level of allowances. These divergences contribute to different carbon prices in the Union and in the United Kingdom.

Linking the United Kingdom and the Union's greenhouse gas emissions trading systems would serve both parties' sustainability objectives. It would advance the level playing field between the Union and the United Kingdom and reduce the risk of carbon leakage. It would furthermore increase certainty in carbon price formation, increase liquidity of the carbon markets, and remove the need for the application of the respective parties' carbon border adjustment mechanisms to products originating in the other party.

**1.2. Consistency with existing policy provisions in the policy area**

***Trade and Cooperation Agreement***

The Trade and Cooperation Agreement contains provisions in relation to both sanitary and phytosanitary measures and greenhouse gas emissions trading.

Regarding sanitary and phytosanitary measures, these provisions build on two separate sanitary and phytosanitary areas. Based on this premise, the Trade and Cooperation Agreement provides for cooperation in order to protect human, animal and plant life or health; furthers the implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures; ensures that sanitary and phytosanitary measures do not create unnecessary barriers to trade; promotes greater transparency and understanding of such measures; enhances cooperation in the fight against antimicrobial resistance, promotion of

sustainable food systems, protection of animal welfare and on electronic certification; enhances cooperation in the relevant international organisations to develop international standards, guidelines and recommendations on animal health, food safety and plant health, as well as promotes their implementation. In relation to organic products, the Trade and Cooperation Agreement, in particular Annex 14 thereof, establishes a mutual recognition of the equivalence of the EU and United Kingdom's organic rules.

Regarding the linking of the United Kingdom and the Union's greenhouse gas emissions trading, Article 392(6) of the Trade and Cooperation Agreement provides that the Union and the United Kingdom shall give serious consideration to linking their respective carbon pricing systems in a way that preserves the integrity of these systems and provides for the possibility to increase their effectiveness.

The new agreements should (i) guarantee dynamic alignment with all the relevant European Union rules, (ii) ensure uniform interpretation, (iii) include a dispute resolution mechanism with an independent arbitration tribunal based on the Trade and Cooperation Agreement with a role for the Court of Justice of the European Union as the ultimate authority for all questions of EU law; and (iv) include a robust mechanism to ensure compliance with rulings of the arbitral tribunal, for instance through the possibility to adopt appropriate measures to protect the Union interests and the possibility of cross-retaliation between the new agreements and between these and the areas covered by the Trade and Cooperation Agreement.

They should ensure that: (i) appropriate use is made of the governance structures of the existing agreements, notably the Trade and Cooperation Agreement, and (ii) that the safeguard clause of the Trade and Cooperation Agreement (Article 773 Trade and Cooperation Agreement) applies to the new agreements.

#### ***Withdrawal Agreement including the Windsor Framework***

The Windsor Framework makes a set of relevant Union law automatically applicable to and in the United Kingdom in respect of Northern Ireland, in order to avoid a hard border on the island of Ireland. The Windsor Framework will continue to apply both as regards the sanitary and phytosanitary measures and the Single Electricity Market.

The two envisaged agreements on a common sanitary and phytosanitary area and on the linking of the greenhouse gas emission systems would therefore apply alongside and without prejudice to the Windsor Framework, as detailed below.

(a) As regards sanitary and phytosanitary measures:

- The Union relevant acquis would continue to apply to and in the United Kingdom in respect of Northern Ireland by virtue of the Windsor Framework, and in particular its Articles 5(4) and 13(1) and (3) read in conjunction with the relevant parts of Annex 2;
- The implementation, application, supervision and enforcement of the Union acquis applicable to and in the United Kingdom in respect of Northern Ireland as set out in Article 12 of the Windsor Framework would continue to apply.

After the conclusion of an EU-UK agreement on a common sanitary and phytosanitary area and only for as long as there is full compliance with such an agreement, the intention is to ensure that the same benefits of the agreement will be extended to the sanitary and phytosanitary aspects of the movements of goods into Northern Ireland from other parts of the United Kingdom, through the interplay of such an agreement and the Windsor Framework.

This would mean that the vast majority of movements of animals, animal products, plants, and plant products between Great Britain and Northern Ireland would be undertaken without the certificates or controls that are currently required or expected. In addition, requirements such

as the “not for EU” labelling for specific retail agri-foods would be removed as both the EU and the United Kingdom would be subject to the same SPS rules and standards and the destination or consumption of those goods would no longer be limited to Northern Ireland without onward movement into the EU.

To this end, the Commission will propose to initiate the necessary procedures in order to add the relevant Union act(s) concerning the future EU-UK agreement on a common sanitary and phytosanitary area to the relevant annex of the Windsor Framework, as well as to table targeted amendments to the relevant Union legislation applicable to and in the United Kingdom in respect of Northern Ireland. The latter may include i) elements pertaining to the extension of the benefits of the future agreement to the movements of goods between Great Britain and Northern Ireland and corresponding safeguards, and ii) provisions specifying the conditions to maintain in full or in part the existing sanitary and phytosanitary facilitations under the Windsor Framework where useful. The content of those amendments, including the appropriate safeguard measures, can only be established once the negotiations for an EU-UK agreement on a common sanitary and phytosanitary area are completed, and the exact scope and content of the envisaged agreement is known.

- (b) As regards linking the United Kingdom and Union greenhouse gas emissions trading systems:

The agreement to link the Union emissions trading system with the emissions trading scheme of the United Kingdom should apply to the Union and the United Kingdom. In respect of Northern Ireland for wholesale electricity markets, the arrangements provided for in Article 9 of and Annex 4 to the Windsor Framework will continue to apply.

### **1.3. Consistency with other Union policies**

#### ***Level Playing Field Benefits***

Both agreements would ensure that a level playing field is in place for operators in the European Union and the United Kingdom. The agreement on a common sanitary and phytosanitary area would ensure common standards and regulatory alignment to Union rules. In the case of emissions trading, the agreement to link the United Kingdom and the Union’s greenhouse emissions trading systems would ensure at least the same decarbonisation ambition, thereby reducing the risk of carbon leakage and distortion of competition, but also the same scope (except the individual heating of housing) and regulatory alignment to relevant Union rules.

The agreement to link the United Kingdom and the Union’s greenhouse emissions trading systems would have to satisfy the conditions set out in Article 2(6) of Regulation (EU) 2023/956 establishing a carbon border adjustment mechanism ('CBAM regulation'). As a result, once the agreement is in force, the CBAM regulation would not apply to goods originating in the United Kingdom. Equally, the United Kingdom would not apply its own CBAM to goods originating in the Union.

#### ***Bilateral Trade Benefits***

The agreement on a common sanitary and phytosanitary area would facilitate trade by removing the need for certification and systematic border controls on products and standards covered by the agreement, while maintaining high standards of protection of public, animal and plant health as well as food standards.

## ***Sustainability and Climate Benefits***

The greenhouse gas emissions trading system of the Union is a cornerstone of its climate policy, designed to cost-effectively bring down greenhouse gas emissions across a range of activities. In line with the 'polluter pays' principle, the trading system sets a limit and puts a carbon price on emissions from the energy and industrial sectors, aviation, as well as maritime transport, which are responsible for approximately 40% of the Union's total emissions. The system uses market forces to determine the carbon price, which creates incentives to reduce emissions where it is most cost-effective to do so. Carbon prices also shape the revenues that are invested in climate action and energy transition.

The agreement to link the United Kingdom and the Union's greenhouse emissions trading systems would enable the EU to leverage these benefits in a bilateral context and support the development of a well-functioning international carbon market through the linking of greenhouse gas emissions trading systems. This is a long-term goal of the Union, notably as a means to achieve climate objectives under the Paris Agreement adopted in December 2015.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **2.1. Procedural legal basis**

Article 218(3) of the Treaty on the Functioning of the European Union (TFEU) provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit recommendations to the Council. The Council shall adopt a decision authorising the opening of the negotiations and nominating the Union negotiator or the head of the Union's negotiating team.

Article 218(4) TFEU provides that the Council may address negotiating directives to the negotiator and designate a special committee to consult the negotiator.

The Commission recommends to open negotiations between the European Union and the United Kingdom for two international agreements, one relating to a common sanitary and phytosanitary area and one agreement relating to the linking of the United Kingdom and of the Union's emissions trading systems. The Commission is to be nominated as negotiator.

The procedural legal basis for the proposed decision to authorise opening of negotiations of the two envisaged agreements is Article 218(3) and (4) TFEU.

### **2.2. Substantive Legal basis**

This proposal concerns the negotiation of two different agreements which will fall under two different substantive legal bases.

In line with opinion 1/94<sup>5</sup> and opinion 2/15<sup>6</sup> of the CJEU, agreements to third countries involving sanitary and phytosanitary matters are part of the Common Commercial Policy under Article 207 TFEU. Hence, the substantive legal basis of an agreement between the Union and United Kingdom on a common sanitary and phytosanitary area should be the first subparagraph of Article 207(4) TFEU.

An agreement on linking the United Kingdom and the Union's emissions trading systems shall be concluded on the basis of Article 192(1) TFEU.

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<sup>5</sup> Opinion of the Court of 15 November 1994, opinion 1/94, European Court Reports 1994 I-05267.

<sup>6</sup> Opinion of the Court of 16 May 2017, opinion 2/15, *OJ C 239*, 24.7.2017, p. 3–3



### **2.3. Union competence**

As the legal basis of an agreement on a common sanitary and phytosanitary area falls under the Common Commercial Policy, the Union has exclusive competence to conclude that agreement in accordance with Article 3(1) TFEU.

The Union has also exclusive competence to conclude the agreement on linking the United Kingdom and the Union emissions trading systems in accordance with Article 3(2) TFEU.

### **2.4. Subsidiarity (for non-exclusive competence)**

According to Article 5(3) of the TEU, the subsidiarity principle does not apply in areas of exclusive EU competence.

### **2.5. The choice of negotiator**

Given that the agreements envisaged exclusively cover matters other than the Common Foreign and Security Policy, the Commission must be designated as the negotiator pursuant to Article 218(3) TFEU.

### **2.6. Proportionality**

The Union's action does not go further than what is necessary to achieve the policy objectives of creating a common sanitary and phytosanitary area and linking the United Kingdom and the Union's emissions trading systems.

### **2.7. Choice of the instrument**

This Recommendation for a Council decision is submitted in accordance with paragraphs 3 and 4 of Article 218 TFEU, which envisage the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may also address negotiating directives to the negotiator. There exists no other legal instrument that could be used in order to achieve the objective expressed in this recommendation.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

N/A

## **4. BUDGETARY IMPLICATIONS**

The agreements should include provisions to ensure the United Kingdom contributes financially to support the Union's work in these policy areas.

## **5. OTHER ELEMENTS**

### **5.1. Detailed explanation of the specific provisions of the recommendation**

With this recommendation, the European Commission invites the Council of the European Union to authorise the opening of negotiations for agreements between the Union and the United Kingdom on the establishment of a common sanitary and phytosanitary area and on linking their greenhouse gas emissions trading systems, to nominate the European Commission as Union's negotiator and to address directives to the negotiator and designate committees in consultation with which the negotiations must be conducted.

Common elements for both agreements:

1. Both agreements should be without prejudice to the proper functioning of the Union's internal market and respective systems.
2. Neither agreement should give the United Kingdom the right to participate in the Union's decision-making. However, the United Kingdom should be involved at an early stage and contribute appropriately for a country that is not a member of the European Union to the decision-shaping process of European Union legal acts in the fields covered by the obligation to dynamically align and simultaneously apply. The European Commission should consult the United Kingdom at an early stage of policy-making. These rights would not extend to participation in the work of the Council or its preparatory bodies.
3. Both agreements should provide for an obligation for the United Kingdom to dynamically align to the relevant Union legislation. The principle of dynamic alignment should ensure that identical rules within the scope of the agreement are simultaneously applied.
4. Both agreements should ensure uniform interpretation and application of Union law on the basis of the case-law of the Court of Justice of the European Union; in particular, the interpretation given to the applicable rules within the Union should also apply in the context of the relations between the Parties.
5. Both agreements should include effective mechanisms for dispute resolution involving an independent arbitral tribunal and ensuring that the Court of Justice of the European Union is the ultimate authority for all questions of European Union law, with possibilities for appropriate measures to protect the Union interests in case of non-compliance with the agreements.
6. The agreements should ensure that the institutional committee structure of the Trade and Cooperation Agreement is used for the administration of the new agreements.
7. The agreements should include provisions to ensure that cross-retaliation between the new agreements and the areas covered by the Trade and Cooperation Agreement remains possible as contemplated in the Trade and Cooperation Agreement.
8. The agreements should ensure that the Safeguard Measures clause of the Trade and Cooperation Agreement (Article 773 Trade and Cooperation Agreement) applies.
9. The United Kingdom should contribute financially to support relevant costs associated with the Union's work in these policy areas.

Main elements regarding the agreement on a common sanitary and phytosanitary area:

10. The envisaged agreement should establish a common sanitary and phytosanitary area between the Union and the United Kingdom in respect of Great Britain. As a result, animals, plants, food/feed products of animal or plant origin as well as related products covered by the regulations included in the scope of the agreement, and in relation to standards covered by the agreement, would move between the Union and the United Kingdom in respect of Great Britain as if they moved within the Union.
11. The scope should cover sanitary, phytosanitary, food safety and general consumer protection rules applicable to the production, distribution and consumption of agrifood products, the regulation of live animals and pesticides, the rules on organic production and labelling of organic products as well as marketing standards applicable to certain sectors or products.



12. The principle of dynamic alignment mentioned above should ensure that identical rules within this scope are applied to and in the United Kingdom in respect of Great Britain and in the Union in order to create a common sanitary and phytosanitary area. In addition to that principle, the agreement would have to provide for the simultaneous application, to and in the United Kingdom in respect of Great Britain, of all of those rules.
13. In addition, the agreement should provide that certain provisions of Union law, including emergency measures and those applicable to the entry of animals, plants, food/feed products of animal or plant origin as well as related products, into the Union from the rest of the world are immediately applicable to and in the United Kingdom in respect of Great Britain.
14. The agreement should provide the same possibilities for the United Kingdom to take targeted action to protect its biosecurity and public health as those offered to Member States under Union law. In addition, the agreement may include a short list of limited exceptions to the principles of dynamic alignment and simultaneous application. An exception should only be agreed if: (i) it does not lead to the application of lower standards in the United Kingdom in respect of Great Britain as compared to those laid down in the relevant Union rules; (ii) it may not be invoked to restrict or affect in any other negative way the entry into the territory of the United Kingdom of animals, plants and goods originating in the Union that comply with Union law; (iii) it respects the principle that only animals, plants and goods which comply with Union law can enter the Union.

Main elements regarding the agreement to link the United Kingdom and the Union's greenhouse emissions trading systems:

15. The agreement should link the greenhouse gas emissions trading systems of the Union and the United Kingdom, ensuring mutual recognition of emission allowances.
16. The agreement should ensure that each party does not apply its carbon border adjustment mechanism to imported goods originating in the other party, provided that it complies with the relevant EU legislation.
17. The sectors falling within the scope of the agreement should include, among others: electricity generation, industrial heat generation (excluding the individual heating of houses), industry, domestic and international maritime transport and domestic and international aviation and within this scope, the agreement should ensure the dynamic alignment of the United Kingdom with the relevant Union rules. The agreement should provide for a procedure to further expand the list of sectors to be covered.
18. The agreement should require the United Kingdom to dynamically align to the relevant acquis, notably Directive 2003/87/EC and derived legislation.
19. The scope of dynamic alignment should also include all the provisions of the EU financial regulatory and supervisory framework applicable to trade in allowances of the Union emission trading system (EU ETS) and derivatives thereof.
20. The agreement should define the United Kingdom's cap and reduction pathway, which should be at least as ambitious as the European Union cap and the reduction pathway followed by the Union.

## COUNCIL DECISION

**authorising the opening of negotiations between the European Union and the United Kingdom of Great Britain and Northern Ireland on a common sanitary and phytosanitary area between the European Union and the United Kingdom in respect of Great Britain and to link the United Kingdom and the Union's greenhouse emissions trading systems**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) and Article 192(1) 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')<sup>7</sup> applies since 1 January 2021. It is, next to 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 Withdrawal Agreement')<sup>8</sup>, the cornerstone for the bilateral relations between the European Union ('the Union') and the United Kingdom of Great Britain and Northern Ireland ('the United Kingdom').
- (2) On 31 December 2020, when the transition period provided for in the Withdrawal Agreement ended, Union law ceased to apply to the United Kingdom, whilst the Protocol on Ireland/Northern Ireland – now referred to as the Windsor Framework<sup>9</sup> - which forms an integral part of the Withdrawal Agreement, became applicable.
- (3) Since 1 January 2021, the sanitary and phytosanitary areas of the Union, on the one hand, and the United Kingdom, on the other hand, are separated from each other, with separate legislation and policies. However, the Union's sanitary and phytosanitary rules and other relevant rules apply to and in the United Kingdom in respect of Northern Ireland by virtue of the Windsor Framework, thereby including Northern Ireland in the sanitary and phytosanitary area of the Union.
- (4) Since 1 January 2021, the Union and the United Kingdom run separate greenhouse gas emissions trading systems except for the United Kingdom in respect of Northern Ireland, where the Union's greenhouse gas emissions trading system applies insofar

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<sup>7</sup> (OJ L 149, 30.4.2021, p. 10).

<sup>8</sup> (OJ L 29, 31.1.2020, p. 7).

<sup>9</sup> The Windsor Framework is the new way in which the Protocol on Ireland / Northern Ireland, as amended by the Withdrawal Agreement Joint Committee Decision No 1/2023, is referred to in accordance with Joint Declaration No 1/2023 of the Union and the United Kingdom (OJ L 102, 17.4.2023, p. 87).

as it relates to wholesale electricity markets in accordance with Article 9 of and Annex 4 to the Windsor Framework.

- (5) From the beginning of the process leading to the withdrawal of the United Kingdom from the Union, the Union has shown openness to creating a common sanitary and phytosanitary area with the United Kingdom in respect of Great Britain, provided the right conditions are met.
- (6) Article 764 of the Trade and Cooperation Agreement provides that the fight against climate change constitutes an essential element of the partnership established by the Trade and Cooperation Agreement and future supplementing agreements.
- (7) According to Article 392(6) of the Trade and Cooperation Agreement, the Union and the United Kingdom shall give serious consideration to linking their respective carbon pricing systems in a way that preserves the integrity of these systems and provides for the possibility to increase their effectiveness.
- (8) Article 25(1a) of Directive 2003/87/EC of the European Parliament and of the Council<sup>10</sup> ('Directive 2003/87EC') provides for the possibility to conclude agreements with third countries for the mutual recognition of allowances between greenhouse gas emissions trading systems.
- (9) Directive 2003/87/EC requires that any such third country emissions trading system be mandatory and based on absolute emissions caps. These criteria are currently met by the United Kingdom's greenhouse gas emissions trading system.
- (10) According to Article 2(4) and (6) of Regulation (EU) 2023/956 of the European Parliament and of the Council<sup>11</sup> ('CBAM regulation'), the CBAM regulation does not apply to goods originating from third countries with whom the Union has concluded an agreement fully linking the Union emission trading system and the emission trading system of that third country and which fulfil all the relevant conditions.
- (11) At their summit on 19 May 2025, the European Commission and the United Kingdom agreed on a Common Understanding that identifies working towards both a common sanitary and phytosanitary area and linking their emission trading systems as key priorities. The Common Understanding also sets out the political agreement of a series of underlying parameters for the future work on agreements on a common sanitary and phytosanitary area and on linking the United Kingdom and the Union emission trading systems, while recalling that the two sides would proceed swiftly on these undertakings in accordance with the respective procedures and legal frameworks.
- (12) Negotiations should therefore be opened with a view to concluding two separate agreements with the United Kingdom: one on a common sanitary and phytosanitary area and another to link the United Kingdom and the Union's greenhouse emissions trading systems,

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<sup>10</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32–46, ELI: <http://data.europa.eu/eli/dir/2003/87/2024-03-01>

<sup>11</sup> Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ L 130, 16.5.2023, p. 52–104, ELI: <http://data.europa.eu/eli/reg/2023/956/oj>

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission is hereby authorised to negotiate, on behalf of the Union, with the United Kingdom:

- (a) an agreement on a common sanitary and phytosanitary area between the Union and the United Kingdom in respect of Great Britain;
- (b) an agreement to link the greenhouse gas emissions trading systems of the Union and the United Kingdom.

*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(s) to be inserted by the Council].

*Article 4*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council  
The President*



Brussels, 16.7.2025  
COM(2025) 408 final

ANNEX

**ANNEX**

**to the**

**Recommendation for a COUNCIL DECISION**

**authorising the opening of negotiations between the European Union and the United Kingdom of Great Britain and Northern Ireland on a common sanitary and phytosanitary area between the European Union and the United Kingdom in respect of Great Britain and to link the United Kingdom and the Union's greenhouse emissions trading systems**

## ANNEX

### **INSTITUTIONAL PROVISIONS RELEVANT FOR BOTH AGREEMENTS**

1. The implementation of the envisaged agreements should be subject to joint governance mechanisms. These mechanisms should have adequate roles in the procedures ensuring the incorporation of the Union's evolving legislation, through dynamic alignment, into the legal order of the United Kingdom. The Commission shall ensure provisions are included for the unilateral termination of the agreements.

#### **General principles**

2. The common institutional provisions should have the objective to ensure that the rules applicable to relations with the United Kingdom in the fields covered by the agreements, where relevant, are the same as those applying in the Union internal market, at all times, and that their interpretation and application cannot differ.
3. Bearing in mind that objective, the institutional provisions should reflect the following essential principles and include the following elements:

#### **Dynamic alignment**

4. The common institutional provisions should ensure that the United Kingdom applies at all times the full body of Union acquis that is relevant for the purposes of each agreement, on a dynamic basis. This body of Union acquis should be listed in the agreements as existing at the time of signature. Subsequent relevant legal acts of the Union should be incorporated into the respective agreement by means of appropriate mechanisms. The incorporation of new relevant acts of Union law into the respective agreement should be done by a joint committee as soon as possible after their adoption and if possible within a given deadline and constitute an obligation for the Parties. If the deadline is not met, the Parties should be able to submit the case to dispute settlement.
5. For both agreements, the principle of dynamic alignment should ensure that identical rules within the scope of the agreement are simultaneously applied. In addition, the agreement on a common sanitary and phytosanitary area should provide that certain provisions of Union law, including emergency measures and those applicable to the entry into the Union of animals, plants and goods from the rest of the world, are immediately applicable to and in the United Kingdom in respect of Great Britain.
6. The agreement on a common sanitary and phytosanitary area should provide the same possibilities for the United Kingdom to take targeted action to protect its biosecurity and public health as those offered to Member States under Union law. In addition, the agreement may include a short list of limited exceptions to the principles of dynamic alignment and simultaneous application. An exception should only be agreed if: (i) it does not lead to the application of lower standards in the United Kingdom in respect of Great Britain as compared to those laid down in the relevant Union rules; (ii) it may not be invoked to restrict or affect in any other negative way the entry into the territory of the United Kingdom of animals, plants and goods originating in the Union that comply with Union law; (iii) it respects the principle that only animals, plants and goods which comply with Union law can enter the Union.



### **Decision shaping**

7. Neither agreement should give the United Kingdom the right to participate in the Union's decision-making. However, the United Kingdom should be involved at an early stage and contribute appropriately for a country that is not a member of the European Union to the decision-shaping process of European Union legal acts in the fields covered by the obligation to dynamically align and simultaneously apply. The European Commission should consult the United Kingdom at an early stage of policy-making. These rights would not extend to participation in the work of the Council or its preparatory bodies.

### **Uniform interpretation and application of the Union acquis**

8. The institutional provisions should lay down an obligation to interpret and apply the Union law in the relations between the Parties in the same way as it is interpreted and applied within the Union. This requires that the Union acts referred to in the agreements and, to the extent that their application involves concepts of Union law, the provisions of the agreements be interpreted and applied in accordance with the case-law of the Court of Justice of the European Union both prior and subsequent to the signature of the corresponding agreement.

### **Dispute settlement**

9. The institutional provisions should ensure that disputes in the interpretation or application of the agreements can be submitted by the Parties to a dispute settlement mechanism based on that established by the Trade and Cooperation Agreement for their resolution if an amicable solution cannot be found within a joint committee. The dispute settlement mechanism should safeguard the exclusive competence of the Court of Justice of the European Union to interpret Union law. To that end, the arbitral tribunal should be under an obligation to refer to the Court of Justice of the European Union all questions of Union law (including a concept or a provision of Union law) for it to give a ruling which should be binding on the arbitral tribunal.

### **Appropriate measures to protect the Union interests and interconnection between agreements**

10. An effective system of appropriate measures should guarantee the integrity of the internal market in case of non-compliance with the ruling of the arbitral tribunal. In particular, the procedure to be followed in case of non-compliance with the arbitral tribunal's decision should include the possibility to take appropriate measures to protect the Union interests, including in the agreement concerned or in another agreement in force between the parties.

### **Consistency with the Trade and Cooperation Agreement**

11. Without prejudice paragraphs 1 to 10, the agreements should build on the institutional framework laid down in the Trade and Cooperation Agreement, in particular as regards the role of the Partnership Council.
12. The agreements should include provisions to ensure that cross-retaliation between the new agreements and the areas covered by the Trade and Cooperation Agreement remains possible as contemplated in the Trade and Cooperation Agreement.
13. The agreements should ensure that the Safeguard Measures clause of the Trade and Cooperation Agreement (Article 773 of the Trade and Cooperation Agreement) applies.

14. The provisions of the Trade and Cooperation Agreement as regards essential elements (Articles 771 and 772 of the Trade and Cooperation Agreement) should apply with respect to the new agreements.
15. Provisions in the Trade and Cooperation Agreement that are in conflict with the new agreements should be disapplied.

## **AGREEMENT ON A COMMON SANITARY AND PHYTOSANITARY AREA**

### **Territorial scope**

16. The agreement should apply, as regards the Union, to and in the territories in which the Treaties apply and under the conditions laid down therein and, as regards the United Kingdom, to and in the United Kingdom in respect of Great Britain<sup>1</sup>.

### **Material scope**

17. The agreement should cover sanitary, phytosanitary, food safety and general consumer protection rules applicable to the production, distribution and consumption of agrifood products, the regulations of live animals and pesticides, the rules on organic production and labelling of organic products, as well as marketing standards applicable to certain sectors or products. All of these areas should be addressed in their entirety, including the enforcement of legal requirements and the rules on certification and official controls.

### **Controls and checks**

18. As part of the principle of dynamic alignment described above, the agreement should ensure that the United Kingdom in respect of Great Britain dynamically aligns with the relevant rules, including on controls and checks that apply to intra-EU trade.
19. As a consequence, the agreement would also ensure that the rules applicable to the entry into the United Kingdom in respect of Great Britain from the rest of the world of animals, plants, and those goods, which are subject to the rules to which the United Kingdom would dynamically align in the context of the agreement, are the same as those provided for by relevant Union law on the entry of animals, plants, and goods into the Union from the rest of the world.

### **Other aspects**

20. The agreement should be without prejudice to:
  - the rules of origin applicable to trade in goods between the Union and the United Kingdom as laid down in the Trade and Cooperation Agreement;
  - the Union's customs rules.
21. Independently of the conduct and outcome of the negotiations, the Windsor Framework continues to provide for the Union rules as regards sanitary and phytosanitary measures and other relevant Union rules to apply to and in the United Kingdom in respect of Northern Ireland.

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<sup>1</sup> The Windsor Framework makes Union law in the area of SPS automatically applicable to and in the United Kingdom in respect of Northern Ireland. Trade between the Union and Northern Ireland, as well as the movements between Great Britain and Northern Ireland, are governed by the Windsor Framework.

## **AGREEMENT TO LINK THE UNITED KINGDOM AND THE UNION'S GREENHOUSE EMISSIONS TRADING SYSTEMS**

### **Territorial and material scope**

22. The agreement to link the United Kingdom and the Union's greenhouse emissions trading systems should apply, for the Union, to the territories in which the Treaties apply and under the conditions laid down therein and, for the United Kingdom, in respect of Great Britain. The agreement should also apply to and in the United Kingdom in respect of Northern Ireland except as regards wholesale electricity markets, where the arrangements in Article 9 of and Annex 4 to the Windsor Framework will continue to apply. The agreement should ensure that the United Kingdom applies the same territorial scope for emissions trading as the Union for aviation and maritime transport.
23. The agreement should cover all aspects of a link between emission trading systems such as those falling under the scope of Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and the derived legislation.
24. In particular, the sectors falling in the scope of the agreement should be clearly defined. Among others, the scope should include the sectors of electricity generation, industrial heat generation (excluding the individual heating of houses), industry, domestic and international maritime transport and domestic and international aviation. Within this scope, the agreement should ensure the dynamic alignment of the United Kingdom with the relevant European Union rules to avoid risks of carbon leakage and competitive distortions. The agreement should provide for a procedure to further expand the list of sectors to be covered by the linking agreement.
25. The agreement should also ensure the dynamic alignment of the United Kingdom with the provisions of the Union's financial regulatory and supervisory framework applicable to trade of EU ETS allowances and derivatives thereof.

### **Ambition**

26. The agreement should require that the cap and reduction pathway of the United Kingdom are at least as ambitious as the cap and reduction pathway followed by the Union.
27. The agreement should not constrain the Union and the United Kingdom from pursuing higher environmental ambition, consistent with their international obligations.

### **Recognition of allowances**

28. The agreement should include an obligation to recognise emission allowances under the emissions trading system of one party under the emissions trading system of the other party.

### **Carbon Border Adjustment Mechanism**

29. The agreement should create the conditions for goods originating in the Union and the United Kingdom to benefit from mutual exemptions from the respective Union and United Kingdom Carbon Border Adjustment Mechanisms, subject to compliance with the relevant provisions of the Union's and the United Kingdom's respective legislation.

### **Other aspects**

30. The agreement should ensure that the trading of allowances and derivatives thereof on primary and secondary markets takes place in accordance with the same rules as the ones which apply within the Union, including relevant financial sector rules.
31. The agreement should safeguard the integrity of the emission allowance markets in the Union.
32. The agreement should include appropriate provisions relating to the Union opening negotiations with a view to linking the emissions trading system of the Union with the emissions trading systems of other third countries.
33. The agreement should contain appropriate transitional provisions with regard to allowances in circulation in case of termination of the agreement.

### **FINANCIAL CONTRIBUTION**

34. The United Kingdom should bear appropriate costs for participation in the common sanitary and phytosanitary area and for the implementation of the agreement to link the United Kingdom and the Union's greenhouse emissions trading systems.
35. The United Kingdom should contribute financially to supporting the relevant costs associated with the Union's work in these policy areas. This includes financial contribution to *inter alia* the functioning of the relevant Union agencies, systems and databases to which the United Kingdom would gain appropriate access.

### **PROCEDURAL ARRANGEMENTS FOR THE CONDUCT OF THE NEGOTIATIONS**

36. The Commission should conduct the negotiations in consultation with the Council's Working Party on the United Kingdom, which shall be a special committee within the meaning of Article 218(4) TFEU.
37. The Commission should, in a timely manner, consult and report to the special committee. The Commission should provide in a timely manner all necessary information and documents relating to the negotiations.
38. The Commission should, in a timely manner, keep the European Parliament fully informed of the negotiations.