

EXPLANATORY MEMORANDUM ON A UK/EU WITHDRAWAL AGREEMENT OR TRADE AND COOPERATION AGREEMENT GOVERNANCE DOCUMENT

Council number 2025/0026 (NLE)

COM(2025)48 final, Annex 1 and Annex 2

Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union within the Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties established by 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

Submitted by HM Revenue & Customs, 23 April 2025

SUBJECT MATTER

1. Under Article 120 of the Trade Cooperation Agreement (TCA) between the UK and the EU, the competent authorities of the Parties to that agreement shall cooperate with each other to ensure compliance with VAT legislation and in recovering claims relating to taxes and duties in accordance with the VAT Protocol.
2. The objective of this Protocol is to establish the framework for administrative cooperation between the UK and EU Member States, in order to enable their authorities to assist each other in ensuring compliance with VAT legislation and in protecting VAT revenue, and in recovering claims relating to taxes and duties.
3. Article 8(1)(k) of the TCA establishes the Trade Specialised Committee (TSC) on Administrative Cooperation in VAT and Recovery of Taxes and Duties, to address matters covered by the Protocol on administrative cooperation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties.
4. The TSC has the power to monitor and review the implementation and ensure the proper functioning of the Protocol on VAT administrative cooperation and mutual assistance for the recovery of VAT and duty claims.
5. Under Article PVAT.39(1) of this Protocol, the TSC is required to hold regular consultations and review the operation and effectiveness of the VAT Protocol at least every 5 years. In addition to this, the TSC can, under PVAT.39(2),

adopt decisions or recommendations to implement all aspects of the VAT Protocol.

6. The EU implementing decision covers adjustments to the electronic forms used under Article 19(1) for the administrative cooperation between the UK and EU member states. The changes will align the forms to the exchange of forms system referred to Annex 2, that was last amended by the TSC implementing decision No 4/2023, and subsequently amended by implementing decision No1/2024.
7. In practical terms the changes improve the usability of the forms for the purposes of VAT exchanges of information, by enabling tax authorities to be specific and targeted with their requests. For example, the changes include the option to specify the type of suspected non-compliance, the nature and details of relevant cross-border transactions and any associated case. Other changes to the forms standardise the structure of certain fields, such as dates and monetary amounts, to minimise errors. Additionally, the forms now contain references to the relevant articles of the VAT Protocol. Furthermore, the changes formalise the way in which a tax authority can cancel a request for information, refuse a request and share certain information between multiple tax authorities where sufficient reasons exist.

SCRUTINY HISTORY

Explanatory Memorandum 12523/23 dated 3 October 2023. Following an exchange of correspondence with the previous Minister there were no questions left outstanding.

MINISTERIAL RESPONSIBILITY

The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues, and on tax policy within the United Kingdom. The Cabinet Office is responsible for overall United Kingdom policy towards the European Union.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

The taxation proposal contained in the Communication are a reserved matter under the UK's devolution settlements. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

- i. Legal Base
Article 218(9) of the TFEU provides for decisions establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.
- ii. Voting Procedure
 - a. Unanimity
- iii. Timetable for adoption and implementation
 - a. The UK/EU Trade Specialised Committee will adopt the constituted acts at the TSC meeting to give legal effect.
 - b. The acts will be binding under international law in accordance with Article 10 of the TCA.

POLICY AND LEGAL IMPLICATIONS

The 'Protocol on Administrative Cooperation and Combating Fraud in the Field of Value Added Tax and on Mutual Assistance for the Recovery of Claims Relating to Taxes and Duties' (the Protocol) is contained in the UK-EU TCA. The Protocol enables EU Member States and the UK to continue to assist each other by exchanging information on VAT compliance and by recovering taxes on behalf of one another.

The Protocol includes arrangements for administrative cooperation in VAT and debt recovery, but tasks the TSC on Administrative Cooperation in VAT and Recovery of Taxes and Duties (the VAT and Debt TSC) with determining the standard forms to be used for communication in administrative cooperation between the UK and the Member States.

HMRC, together with the European Commission, jointly co-chair the VAT and Debt TSC, which sits under the Trade Partnership Committee and Partnership Council in TCA governance structures.

The implementing decision concerns the standard forms which are routinely used to securely exchange VAT information between jurisdictions, with the aim of correctly assessing VAT due, monitoring the correct application of VAT legislation, and combat VAT non-compliance and fraud.

The proposed changes are warranted by the requirement that the standard forms need to be regularly updated to maintain their relevancy and usability by tax authorities for the purposes of the Protocol.

CONSULTATION

N/A

FINANCIAL IMPLICATIONS

No additional financial implication will arise from this.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in black ink, appearing to read 'James Murray', with a long horizontal stroke extending to the right.

James Murray MP

Exchequer Secretary to the Treasury