2026/1732

14.7.2026

COUNCIL DECISION (EU) 2026/1732

of 1 July 2026

on the signing, on behalf of the Union, and provisional application of the Agreement in respect of Gibraltar 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 COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(5) and (7) and Article 218(8), second subparagraph, thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The United Nations General Assembly resolutions on the decolonisation of the territory of Gibraltar ('Gibraltar') list Gibraltar as a 'Non-Self-Governing Territory Administered by the United Kingdom of Great Britain and Northern Ireland' in application of Chapter XI of the Charter of the United Nations.

(2) In accordance with Article 774(3) 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 [1] (the 'Trade and Cooperation Agreement') and in line with the Declaration of the European Council and of the Commission on the territorial scope of future agreements included in the minutes of the European Council meeting of 25 November 2018, the Trade and Cooperation Agreement neither applies to Gibraltar nor has any effects in that territory. As provided for in that Declaration, 'this does not preclude the possibility to have separate agreements between the Union and the United Kingdom in respect of Gibraltar' and, 'without prejudice to the competences of the Union and in full respect of the territorial integrity of its Member States as guaranteed by Article 4(2) of the Treaty on European Union, those separate agreements will require a prior agreement of the Kingdom of Spain'.

(3) On 31 December 2020, the Kingdom of Spain ('Spain') conveyed its desire that the Union establish a broad and balanced arrangement with regard to Gibraltar based on the political framework agreed between Spain and the United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom') for an agreement on Gibraltar.

(4) On 5 October 2021, the Council authorised the Commission to open negotiations with the United Kingdom for an agreement in respect of Gibraltar.

(5) The negotiations were completed on 12 December 2025. They resulted in the Agreement in respect of Gibraltar 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 'Agreement').

(6) The Agreement, or any activity or measure taken in application or as a result thereof, does not imply any modification of the legal position of Spain with regard to sovereignty and jurisdiction in relation to Gibraltar.

(7) As the authorities of Gibraltar have a local character and exercise exclusively internal competences, any participation of those authorities in the application of the Agreement should be considered to be conducted exclusively within the internal competences of Gibraltar, unless otherwise specifically provided for.

[1] OJ L 149, 30.4.2021, p. 10, ELI: http://data.europa.eu/eli/agree_internation/2021/689(1)/oj.

(8) The Agreement establishes the basis for the removal of all physical barriers between the Union and Gibraltar and promotes shared prosperity and close and constructive relations in respect of Gibraltar and the adjacent area in Spain, involving reciprocal rights and obligations, common actions and special procedures.

(9) The removal of physical barriers between the Union and Gibraltar is without prejudice to the responsibilities of Spain over its external borders under Union law.

(10) The Commission, in accordance with Article 17(1) of the Treaty on European Union (TEU), is to represent the Union and to express the Union's positions as established by the Council in accordance with the Treaties. The Council is to exercise its policy-making and coordinating functions as provided for in Article 16(1) TEU by establishing the positions to be taken on the Union's behalf in the Cooperation Council and the Specialised Committees established by the Agreement. Furthermore, where the Cooperation Council or the Specialised Committees established by the Agreement are called upon to adopt acts having legal effects, the positions to be taken on the Union's behalf in those joint bodies are to be established in accordance with the procedure set out in Article 218(9) of the Treaty on the Functioning of the European Union (TFEU).

(11) Each Member State should be allowed to send one representative to accompany the Commission representative, as part of the Union delegation, in meetings of the Cooperation Council and Specialised Committees established under the Agreement.

(12) The European Parliament is to be immediately and fully informed, as provided for in Article 218(10) TFEU, in order to allow it to exercise fully its prerogatives in accordance with the Treaties.

(13) Spain, as the neighbouring Schengen State in charge of performing external border control at Gibraltar port and airport, can, after an evaluation of the implementation of Part Two of the Agreement, on circulation of persons, request the Union to terminate the Agreement.

(14) The authorities of Spain should be the competent authorities within the Union for the purposes of the application of the customs-related provisions of the Agreement. In the exceptional case referred to in point 2 of Appendix 1 to Annex 21 to the Agreement, the authorities of the Portuguese Republic should be the competent authorities within the Union for the purposes of the application of the customs-related provisions of the Agreement.

(15) The authorities of Spain should provide the assessment of the functioning of the relevant bilateral administrative arrangements, which will be part of the evaluation by the Cooperation Council established by the Agreement of the implementation of Part Two of the Agreement after a 4-year period.

(16) The proper functioning of the Agreement requires that Spain and the United Kingdom conclude an implementation plan and certain administrative arrangements. In the absence of that plan and those arrangements, the respective parts of the Agreement cannot be applied. It would therefore be necessary to provide for the suspension of the respective parts of the Agreement for the period of time during which the implementation plan or the administrative arrangements are suspended or terminated by Spain. In order to respect the prerogatives of the Council under the Treaties, Spain should inform the Commission and the Council in advance and should take account of the views expressed before proceeding with such suspension or termination of the implementation plan or of any administrative arrangements.

(17) Pursuant to Article 218(7) TFEU, it is appropriate to authorise the Commission to decide on the positions to be taken, on the Union's behalf, in the Specialised Committees established under the Agreement as regards the extension of the application of Union legal acts to the United Kingdom, in respect of Gibraltar, with a view to ensuring, to the extent possible, the simultaneous application of those legal acts in the Union and in the United Kingdom, in respect of Gibraltar.

(18) It is also appropriate to authorise the Commission, pursuant to Article 218(7) TFEU, to approve, on the Union's behalf, certain technical modifications to the Agreement. For other decisions adopted by the Specialised Committees, the positions to be taken on the Union's behalf should be established in accordance with the procedure set out in Article 218(9) TFEU.

(19) With a view to enabling the Union to take rapid and effective action to protect its interests in accordance with the Agreement, and in accordance with the conditions set out in the corresponding provisions of the Agreement, the Commission should be empowered to take rebalancing and remedial measures and to decide on the targeted suspension of specific obligations under the Agreement or any supplementing agreement, in cases of breaches of certain provisions of the Agreement or non-fulfilment of certain conditions, in particular in the areas of circulation of persons, anti-money laundering and counter-terrorist financing, State aid, indirect taxation and trade in goods, and road transport. The suspension of all or part of the Agreement or any supplementing agreement, beyond the targeted suspension of specific obligations, should be decided in accordance with Article 218(9) TFEU.

(20) Considering the very specific situation of Spain, which is the neighbouring Member State and has a significant role in the implementation of the Agreement, it is appropriate to provide that the Commission is to consult Spain before it adopts the decisions referred to in this Decision and before making the appropriate proposals to the Council.

(21) Whenever the Union is required to act in order to comply with the Agreement, such action is to be taken in accordance with the Treaties, while respecting the limits of the powers conferred upon each Union institution. It is therefore for the Commission to provide the United Kingdom with the information or notifications required in the Agreement, except where the Agreement refers to other specific institutions, bodies, offices and agencies of the Union, and to consult the United Kingdom on specific matters. It is also for the Commission to represent the Union before the arbitration tribunal where a dispute has been submitted to arbitration in accordance with the Agreement.

(22) In view of the exceptional and unique character of the Agreement, which – as for the Trade and Cooperation Agreement – is a consequence of the withdrawal of the United Kingdom from the Union, the Council is hereby deciding to make use, exceptionally, of the possibility for the Union to exercise its external competence with regard to the United Kingdom, in respect of Gibraltar. The exercise of Union competence through the Agreement is without prejudice to the respective competences of the Union and of the Member States in relation to any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country, or in relation to any future negotiations for, or signature or conclusion of, any supplementing agreements referred to in Article 4 of the Agreement.

(23) Therefore, the Agreement should be signed on behalf of the Union, the Joint Declaration on the interpretation of the category of persons travelling for the purpose of carrying out a paid activity as provided for in Article 41(2) of the Agreement, the Joint Political Declaration on countering harmful tax regimes and the Joint Declaration of the European Union and the United Kingdom relative to Article 152(1) of the Agreement should be made and the text proposed by the Commission for a declaration on supplementing Gibraltar's road transport connectivity should be approved.

(24) By removing all physical barriers to the circulation of persons and movement of goods between the Union and Gibraltar, the Agreement will limit disruptions for individuals, businesses and other stakeholders operating in the area caused by the full deployment of the Entry/Exit System. It should therefore be applied on a provisional basis, pending its entry into force.

(25) The signing of the Agreement as regards matters falling under the Treaty establishing the European Atomic Energy Community is subject to a separate procedure,

HAS ADOPTED THIS DECISION:

Article 1

The signing, as regards matters other than those falling under the Treaty establishing the European Atomic Energy Community, of the Agreement in respect of Gibraltar 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 [2] (the 'Agreement') on behalf of the Union is hereby authorised, subject to the conclusion of that Agreement.

Article 2

1. The Commission shall represent the Union within the Cooperation Council and the Specialised Committees set up pursuant to Articles 22 and 23 of the Agreement.

2. Each Member State, in particular Spain, shall be allowed to send one representative to accompany the Commission representative, as part of the Union delegation, in meetings of the Cooperation Council and of the Specialised Committees established under the Agreement.

3. In order for the Council to be in a position to exercise fully its policy-making, coordinating and decision-making functions in accordance with the Treaties, in particular by establishing the positions to be taken on behalf of the Union within the Cooperation Council and the Specialised Committees established under the Agreement, the Commission shall ensure that the Council receives all the information and documents related to any meeting of those joint bodies or to any acts to be adopted by written procedure sufficiently in advance of that meeting or that usage of written procedure, and in any case not later than 8 working days prior to that meeting or that usage of written procedure.

The Council shall also be informed in a timely manner about the discussions and the outcome of the meetings of the Cooperation Council and the Specialised Committees established under the Agreement and the usage of written procedure, and shall receive draft minutes and all documents relating to such meetings or usage of written procedure.

4. The Commission shall inform the European Parliament, where appropriate.

Article 3

1. The positions to be adopted on behalf of the Union within the Specialised Committees established by Article 23(1) of the Agreement as regards decisions of those Committees merely extending the application of Union legal acts to the United Kingdom, in respect of Gibraltar, subject to any technical adjustments needed, shall be adopted by the Commission.

2. The positions to be adopted on behalf of the Union within the Specialised Committees established by Article 23(1) of the Agreement as regards decisions of those Committees on technical modifications to the Agreement pursuant to Article 75(3), Article 92(3), Article 123(2), Article 125(2), Article 154(3), Article 184(7), Article 257(5) and Article 283(5), points (a) and (d), of the Agreement shall be adopted by the Commission.

Article 4

1. Any decision of the Union to take the following measures under the Agreement shall be taken by the Commission in accordance with the conditions set out in the corresponding provisions of the Agreement:

(a) the suspension of the implementation of obligations in accordance with Article 67;

(b) the application of rebalancing measures as set out in Article 198(6);

(c) the application of remedial measures as set out in Article 209(3);

(d) the use of the safeguard procedure provided for in Article 249;

(e) the suspension of the implementation of obligations in accordance with Article 252(2) or application of measures as set out in Article 252(3);

(f) the application of remedial measures as set out in Article 284.

[2] The text of the Agreement is published in OJ L, 2026/1562, 14.7.2026, ELI: http://data.europa.eu/eli/agree_internation/2026/1562/oj.

2. The Commission shall inform the Council in a timely manner of its intention to adopt any of the measures referred to in paragraph 1 with a view to allowing a meaningful exchange of views in the Council. The Commission shall take the utmost account of the views expressed. The Commission shall also inform the European Parliament, where appropriate.

3. The Commission may adopt measures reinstating the rights and obligations under the Agreement as they existed prior to the adoption of measures referred to in paragraph 1. Paragraph 2 shall apply *mutatis mutandis*.

Article 5

Before adopting any decision on the basis of this Decision, and before making any proposals to the Council in relation to the Agreement, the Commission shall consult Spain.

Article 6

1. Spain shall inform the Council and the Commission in advance of the suspension or termination of the implementation plan referred to in Article 7 of the Agreement (the 'implementation plan') or of the administrative arrangements referred to in Articles 29, 33, 38, 55, 56, 251, 260 and 265 of the Agreement and in the Protocol on Social Security Coordination (the 'administrative arrangements') with a view to allowing a meaningful exchange of views in the Council prior to such suspension or termination. Spain shall take account of the views expressed.

2. Spain shall inform the Council and the Commission of the suspension or termination by the United Kingdom of the implementation plan or of the administrative arrangements.

Article 7

The exercise of Union competence through the Agreement shall be without prejudice to the respective competences of the Union and of the Member States in any ongoing or future negotiations for, or signature or conclusion of, international agreements with any other third country, or in relation to any future negotiations for, or signature or conclusion of, any supplementing agreements referred to in Article 4 of the Agreement.

Article 8

1. Spain shall notify the Commission of the fact that the implementation plan and the administrative arrangements are in effect and have been fully implemented.

2. Provided that the Agreement has been signed and the conditions set out in Article 336(2) thereof are fulfilled, the Agreement shall be applied on a provisional basis as from 15 July 2026, pending its entry into force.

3. The Union shall notify the United Kingdom, in respect of Gibraltar, of the completion of the Union's internal requirements and procedures necessary for the provisional application provided that, prior to the date referred in paragraph 2, the United Kingdom, in respect of Gibraltar, has notified the Union that its internal requirements and procedures necessary for the provisional application have been completed.

Article 9

1. The following declarations attached to this Decision are hereby approved:

(a) Joint Declaration on the interpretation of the category of persons travelling for the purpose of carrying out a paid activity as provided for in Article 41(2) of the Agreement;

(b) Joint Political Declaration on countering harmful tax regimes;

(c) Joint Declaration of the European Union and the United Kingdom relative to Article 152(1) of the Agreement.

2. The Council approves the text proposed by the Commission for a declaration on supplementing Gibraltar's road transport connectivity.

3. The Council takes note of the United Kingdom Declaration regarding a mirror agreement between the Schengen associates and the United Kingdom.

Article 10

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

Done at Brussels, 1 July 2026.

For the Council
The President
T. BYRNE

JOINT DECLARATION ON THE INTERPRETATION OF THE CATEGORY OF PERSONS TRAVELLING FOR THE PURPOSE OF CARRYING OUT A PAID ACTIVITY AS PROVIDED FOR IN ARTICLE 41(2) OF THE AGREEMENT

Desiring to ensure a common interpretation, the Union and the United Kingdom, in respect of Gibraltar, agree that, for the purposes of the Agreement, the category of persons carrying out a paid activity covers persons entering for the purpose of carrying out a gainful occupation or remunerated activity in the territory of the other Contracting Party as an employee or as a service provider.

This category should not cover:

(a) businesspersons, i.e. persons travelling for the purpose of business deliberation (without being employed in the Union or the United Kingdom, in respect of Gibraltar);

(b) sportspersons or artists performing an activity on an ad hoc basis;

(c) journalists sent by the media of their country of residence; and

(d) intra-corporate trainees.

The implementation of this Declaration shall be monitored by the Specialised Committee on the Circulation of Persons, which may propose modifications when, on the basis of the experiences of the Parties, it considers it necessary.

JOINT POLITICAL DECLARATION ON COUNTERING HARMFUL TAX REGIMES

The European Union [1] and the United Kingdom, in respect of Gibraltar (the 'Participants') endorse the following Joint Political Declaration on Countering Harmful Tax Regimes.

The Participants, reflecting the global principles of fair tax competition, affirm their commitment to countering harmful tax regimes, in particular those that may facilitate base erosion and profit shifting in line with Action 5 of the OECD Base Erosion and Profit Shifting (BEPS) Action Plan. In this context, the Participants affirm their commitment to applying the principles on countering harmful tax regimes in accordance with this Joint Political Declaration.

Harmful tax regimes cover business taxation regimes that affect or may affect in a significant way the location of business activity, including the location of groups of companies, within the Participants. Tax regimes include both laws or regulations and administrative practices.

If a tax regime meets the gateway criterion of imposing a significantly lower effective level of taxation than those levels which generally apply in the Participants, including zero taxation, it should be considered potentially harmful. Such a level of taxation may operate by virtue of the nominal tax rate, the tax base or any other relevant factor.

In this context, and considering the approach set out at the global level, when assessing whether a business taxation regime is harmful, account should be taken of whether one or more of the following key factors apply:

(a) whether advantages are ring-fenced from the domestic economy so that they do not affect the national tax base or are accorded only to non-residents;

(b) whether the regime granting the advantages fails to require any substantial economic activity and substantial economic presence within the Participant offering such tax advantages;

(c) whether the rules for profit determination in respect of activities within a multinational group of companies departs from internationally accepted principles, in particular the rules agreed upon within the OECD;

(d) whether the tax regime lacks transparency, including where legal provisions are relaxed at administrative level in a non-transparent way or where there is no effective exchange of information with respect to the regime.

The Participants may hold an annual dialogue to discuss issues in relation to the application of these principles.

[1] For the purposes of the commitments in this Declaration, with respect to the European Union, references to Participants are understood as being to the European Union, its Member States, or the European Union and its Member States, as the case may be.

JOINT DECLARATION OF THE EUROPEAN UNION AND THE UNITED KINGDOM RELATIVE TO ARTICLE 152(1) OF THE AGREEMENT

The Parties acknowledge that the mutual assistance provisions set out in Chapter 6 of Title V, Part II complement the relevant Council of Europe instruments, as listed in Article 152(1), only to the extent that those Council of Europe instruments are applicable to a Member State or the United Kingdom, in respect of Gibraltar. The Parties confirm their mutual understanding that references to those Council of Europe instruments do not make them applicable to a Member State or to the United Kingdom, in respect of Gibraltar, if they have not ratified those Council of Europe instruments.