

Council Decision (EU) 2020/2232 of 22 December 2020 on 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 the adoption of a decision establishing a list of 25 persons who are willing and able to serve as members of an arbitration panel under the Agreement and on a reserve list of persons who are willing and able to serve as Union members of an arbitration panel under the Agreement

COUNCIL DECISION (EU) 2020/2232
of 22 December 2020

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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,

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

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 Community (the ‘Withdrawal Agreement’) was concluded by means of Council Decision (EU) 2020/135⁽¹⁾ on 30 January 2020 and entered into force on 1 February 2020.
- (2) Pursuant to Article 171(1) of the Withdrawal Agreement, the Joint Committee established by Article 164 of the Withdrawal Agreement (‘the Joint Committee’) is to establish, no later than by the end of the transition period set under the Withdrawal Agreement, a list of 25 persons who are willing and able to serve as members of an arbitration panel. The Joint Committee is to ensure that the list complies with the requirements at any moment in time.
- (3) Pursuant to Article 171(2) of the Withdrawal Agreement, the list is to only comprise persons whose independence is beyond doubt, who possess the qualifications required for appointment to the highest judicial office in their respective countries or who are jurisconsults of recognised competence, and who possess specialised knowledge or experience of Union law and public international law. The list is not to comprise

Changes to legislation: There are currently no known outstanding effects for the Council Decision (EU) 2020/2232. (See end of Document for details)

persons who are members, officials or other servants of the Union institutions, of the government of a Member State, or of the government of the United Kingdom.

- (4) The Union and the United Kingdom have jointly proposed five persons for the position of chairperson of the arbitration panel, and have each proposed ten persons for the position of member of the arbitration panel,
- (5) It is appropriate to establish the position to be taken on the Union's behalf in the Joint Committee.
- (6) It is also appropriate to establish a reserve pool of experts who are willing and able to serve as arbitrators under the Withdrawal Agreement and who can be contacted in order to keep the list of 25 persons up to date from the Union side,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Joint Committee established by Article 164(1) of the Withdrawal Agreement as regards the establishment of a list of 25 persons who are willing and able to serve as members of an arbitration panel under the Withdrawal Agreement shall be:

- (a) based on the draft Decision of the Joint Committee attached to this Decision; and
- (b) to support the attachment to the minutes of the meeting of the Joint Committee of a note setting out procedures to nominate in the future chairpersons in the list of chairpersons for the Withdrawal Agreement arbitration panel, as attached to this Decision.

Article 2

A reserve list of persons who may be proposed by the Union in the future to fill vacancies in the list of 25 persons referred to in Article 1 is established as set out in the Annex.

Article 3

The Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

Article 4

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

Done at Brussels, 22 December 2020.

For the Council

The President

M. ROTH

ANNEX I

to Decision No .../2020 of the Joint Committee

Chairpersons for the Withdrawal Agreement Arbitration Panel

Ms Corinna WISSELS
Ms Angelika Helene Anna NUSSBERGER
Mr Jan KLUCKA
Sir Daniel BETHLEHEM
Ms Gabrielle KAUFMANN-KOHLER

Ordinary members for the Withdrawal Agreement Arbitration Panel

EU:

Mr Hubert LEGAL
Ms Helena JÄDERBLOM
Ms Ursula KRIEBAUM
Mr Jan WOUTERS
Mr Christoph Walter HERRMANN
Mr Javier DIEZ-HOCHLEITNER
Ms Alice GUIMARAES-PUROKOSKI
Mr Barry DOHERTY
Ms Tamara Čapeta
Mr Nico SCHRIJVER

UK:

Sir Gerald BARLING
Sir Christopher BELLAMY
Mr Zachary DOUGLAS
Sir Patrick ELIAS
Dame Elizabeth GLOSTER
Sir Peter GROSS
Mr Toby LANDAU QC
Mr Dan SAROOSHI QC
Ms Jemima STRATFORD QC
Sir Michael WOOD

DRAFT NOTE TO ATTACH TO WAJC MEETING MINUTES, XX DECEMBER 2020,
SETTING OUT PROCEDURES TO NOMINATE IN THE FUTURE CHAIRPERSONS IN
THE LIST OF CHAIRPERSONS FOR THE WITHDRAWAL AGREEMENT ARBITRATION
PANEL

The Joint Committee has today adopted the list of 25 persons who are willing and able to serve as members of an arbitration panel in accordance with Article 171 of the Withdrawal Agreement. The Parties recall that the fifth person on the list of chairpersons was selected after a lot drawing that took place on 9 December 2020 in the presence of representatives of both Parties.

In order to ensure balance over time, a rotation should apply whereby when a position held by a chairperson presented by the Party whose candidates occupy three places on the list of five becomes vacant, the other Party will present three candidates from among whom the first Party will select within three working days a chairperson to fill that vacancy.

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If a position held by a chairperson presented by the Party whose candidates occupy two places on the list of five becomes vacant, there will be no rotation and that Party will present three candidates from among whom the other Party will select within three working days a chairperson to fill that vacancy.

Accordingly, the list of chairpersons will at no time have fewer than two chairpersons on it that were presented by each Party.

After each replacement as set out above, the Joint Committee should amend the list of 25 persons by decision adopted in accordance with Article 171 of the Withdrawal Agreement.

In any event, the Joint Committee will review the list of 25 persons two years from the entry into force of the Joint Committee Decision adopted today. The Parties will do their utmost to propose jointly a list of five chairpersons during this review, as set out in the Withdrawal Agreement. This list should replace the previous list no later than six months from the start of the review.

If agreement cannot be reached on the fifth chairperson during the review process, the Party whose candidates occupy two places on the list of five at that point in time will present three candidates from among whom the other Party will select within three days a chairperson to fill that place on the list. Following the review process, the Joint Committee should amend the list of 25 persons by Decision adopted in accordance with Article 171 of the Withdrawal Agreement.

All candidates proposed by a Party for selection by the other Party according to the procedure set out in this Note must satisfy the criteria set out in Article 171 of the Withdrawal Agreement, and, where a Party reasonably considers that this is not the case, it reserves the right to object to the inclusion or appointment of such candidate.

ANNEX

Reserve list of candidates who are willing and able to serve as Union
members of an arbitration panel under the Withdrawal Agreement

Mr Myron NICOLATOS

Mr Ezio PERILLO

Mr Vilenas VADAPALAS

Mr Andreas MÜLLER

Mr Pierre d'ARGENT

Mr Radostin Georgiev PETROV

Mr Costas CLERIDES

Mr Antonin MOKRY

Mr Carri GINTER

Mr Nikolaos MARKOPOULOS

Mr Jukka SNELL

Mr János MARTONYI

Ms Alessandra PIETROBON