Council Decision (EU) 2020/769 of 10 June 2020 establishing the position to be adopted on behalf of the European Union 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 as regards the amendment of the Agreement

COUNCIL DECISION (EU) 2020/769

of 10 June 2020

establishing the position to be adopted on behalf of the European Union 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 as regards the amendment of the Agreement

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[(1)] ('the Withdrawal Agreement') was concluded by the Union by Council Decision (EU) 2020/135[(2)] and entered into force on 1 February 2020.

(2) Article 164(5), point (d), of the Withdrawal Agreement empowers the Joint Committee to adopt decisions amending that Agreement, provided that such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations that were unforeseen when the Agreement was signed, and provided that such decisions do not amend the essential elements of that Agreement. Pursuant to Article 166(2) of the Withdrawal Agreement, decisions adopted by the Joint Committee are binding on the Union and the United Kingdom. The Union and the United Kingdom must implement such decisions, which have the same legal effect as the Withdrawal Agreement. Pursuant to Article 182 of the Withdrawal Agreement, the Protocol on Ireland/Northern Ireland form an integral part of that Agreement.

(3) Certain dates referred to in the Withdrawal Agreement had already passed at the moment of its entry into force. Those dates should therefore be amended and corresponding adjustments should be made to the Withdrawal Agreement in the interest of legal certainty.

(4) Article 145 of the Withdrawal Agreement does not contain provisions governing grants under the Research Fund for Coal and Steel that were granted to United Kingdom's beneficiaries before the end of the transition period. Article 145 of the Withdrawal

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2020/769. (See end of Document for details)*

Agreement should therefore be supplemented in this respect, to provide legal certainty as regards ongoing grants.

(5) By oversight, two decisions of the Administrative Commission for the Coordination of Social Security Systems were not listed in Part I of Annex I to the Withdrawal Agreement and eight acts which are essential for the application of the rules of the internal market for goods to Northern Ireland were not listed in Annex 2 to the Protocol on Ireland/Northern Ireland. Those decisions and acts should therefore be added to those annexes. In addition, three notes are also necessary to further define the scope of application of certain specific acts listed in Annex 2 to the Protocol on Ireland/Northern Ireland. These notes should therefore be added to Annex 2 to the Protocol on Ireland/Northern Ireland.

(6) The Joint Committee should adopt a decision pursuant to Article 164(5)(d) of the Withdrawal Agreement to address these omissions and deficiencies.

(7) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Joint Committee,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the Joint Committee established by the Withdrawal Agreement on the amendment of the Withdrawal Agreement in accordance with Article 164(5)(d) thereof shall be to amend the Withdrawal Agreement as follows:

(1) In Article 135, in the title, the words 'budgets for the years 2019 and 2020' shall be replaced by the words 'budget for the year 2020' and, in paragraph 1, the words 'years 2019 and' shall be replaced by the word 'year' and the word 'budgets' shall be replaced by the word 'budget'.

(2) In Article 137, in the title and in the first subparagraph of paragraph 1, the words '2019 and' shall be deleted.

(3) Article 143(1) shall be amended as follows:

(a) in the second subparagraph, '31 July 2019' shall be replaced by '31 July 2020';

(b) the third subparagraph shall be replaced by the following:

> In the consolidated accounts of the Union relating to 2020, the payments made out of the provisions referred to in point (b) of the second subparagraph from the date of entry into force of this Agreement until 31 December 2020, shall be disclosed for the same financial operations as referred to in this paragraph but which are decided upon on or after the date of entry into force of this Agreement..

(4) In Article 144(1), in the second subparagraph, '31 July 2019' shall be replaced by '31 July 2020'.

(5) In Article 145, the following paragraph shall be added:

> In respect of the projects under the Research Fund for Coal and Steel established by Protocol 37 to the Treaty on the European Union and to the Treaty on the

Functioning of the European Union under grant agreements signed before the end of the transition period, the applicable Union law shall continue to apply to and in the United Kingdom after the end of the transition period, until the closure of the projects. The applicable Union law shall include the following provisions in particular and any amendments to those provisions, irrespective of the date of adoption, entry into force or application of the amendment:

(a) Council Decisions 2003/76/EC[(3)], 2003/77/EC[(4)] and 2008/376/EC[(5)];

(b) the acts referred to in points (a), (c), (d) and (e) of Article 138(2)..

(6) Article 150 shall be amended as follows:

(a) paragraph 4 shall be amended as follows:

(i) in the fourth sentence, '15 December' shall be replaced by '15 October' and '2019' shall be replaced by '2020';

(ii) in the fifth sentence, '15 December 2030' shall be replaced by '15 October 2031';

(b) paragraph 8 shall be amended as follows:

(i) in the first subparagraph, '2019' shall be replaced by '2020';

(ii) in the first sentence of the second subparagraph, '2020' shall be replaced by '2021'.

(7) In Annex 2 to the Protocol on Ireland/Northern Ireland, the following notes shall be inserted:

(a) under '4. General trade related aspects', following the entry for 'Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008':

Without prejudice to the fact that the tariff preferences for eligible countries pursuant to the Union's Generalised Scheme of Preferences shall be applicable in the United Kingdom in respect of Northern Ireland:

— the references to "Member State" in point (ii) of point (c) of Article 9(1) and Chapter VI [Safeguard and surveillance provisions] of Regulation (EU) No 978/2012 shall not be read as including the United Kingdom in respect of Northern Ireland,

— the references to "Union market" in Article 2(k) and Chapter VI [Safeguard and surveillance provisions] of Regulation (EU) No 978/2012 shall not be read as including the market of United Kingdom in respect of Northern Ireland, and

— the references to "Union producers" and to "Union industry" in Regulation (EU) No 978/2012 shall not be read as including the producers or industry of the United Kingdom in respect of Northern Ireland.;

(b) under '5. Trade defence instruments' under the title of the section:

Without prejudice to the fact that the Union's trade defence measures shall be applicable in the United Kingdom in respect of Northern Ireland, the references to "Member States" or "Union" in Regulation (EU) 2016/1036,