Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of 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 (Text with EEA relevance)

COUNCIL DECISION (EU) 2020/135

of 30 January 2020

on the conclusion of 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

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50(2),

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Having regard to the opinion of the European Central Bank,

Whereas:

(1) On 21 October 2019, the Council adopted Decision (EU) 2019/1750[(1)] , amending Decision (EU) 2019/274[(2)] regarding the signing, on behalf of the European Union and of the European Atomic Energy Community, of 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 ('Agreement').

(2) The Agreement should be approved on behalf of the European Union and the European Atomic Energy Community.

(3) Any references to the Union in this decision should be understood as including the European Atomic Energy Community.

(4) On the date of entry into force of the Agreement, the mandates of all members of institutions, bodies and agencies of the Union who were nominated, appointed or elected in relation to the United Kingdom's membership of the Union end automatically as a result of the withdrawal.

(5) It is appropriate to define the modalities of the Union's representation in the Joint Committee and the specialised committees established by the Agreement. The Commission, as provided for in Article 17(1) 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 Joint committee and the specialised committees. Furthermore,

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2020/135. (See end of Document for details)*

where the Joint Committee is called upon to adopt acts having legal effects, the positions to be taken on the Union's behalf in the Joint Committee 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. Six months before Article 5 of the Protocol on Ireland/ Northern Ireland of the Withdrawal Agreement becomes applicable, the modalities for the participation of Member States in the meetings of the Joint Committee and the specialised committees will be reviewed, taking into account the new situation thus created.

(6) It is recalled that several declarations were included in the minutes of the European Council of 25 November 2018. According to the Declaration regarding the Withdrawal Agreement and the Political Declaration, where the Union position to be taken in the Joint Committee relates to the extension of the transition period, the Council will act in accordance with European Council guidelines, and any decision on the extension of the transition period will take into account the fulfilment of obligations by the United Kingdom under the Agreement, including its Protocols. Two other declarations of the European Council and of the Commission were included in the above minutes of the European Council: an interpretative declaration on Article 184 of the Withdrawal Agreement and a declaration on the territorial scope of the future agreements.

(7) Where the Union is to take a position in the Joint Committee, the Council and the Commission are to respect the Declarations included in the minutes of the European Council of 25 November 2018.

(8) The European Parliament is to be immediately and fully informed, as provided for in Article 218(10) TFEU, on the basis of practical modalities of cooperation allowing it to exercise fully its prerogatives in accordance with the Treaties.

(9) Whenever the Union is required to act in order to comply with the provisions of the Agreement, such action is to be taken in accordance with the provisions of the Treaties, while respecting the limits of the powers conferred upon each 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, to consult the United Kingdom on specific matters, and to invite United Kingdom representatives to attend international consultation or negotiation meetings as part of the Union delegation. It is also for the Commission to represent the Union before the arbitration panel where a dispute has been submitted to arbitration in accordance with Article 170 of the Agreement. In compliance with the duty of sincere cooperation referred to in Article 4(3) TEU, the Commission is to consult the Council beforehand, for example by submitting to it the main lines of the intended Union submissions to the panel and taking into account comments made by the Council. It is for the same reason that it should be for the Commission to agree with the United Kingdom on administrative arrangements such as those referred to in Article 134 of the Agreement.

(10) In its statement for the minutes of the Council meeting of 29 January 2018, the Commission indicated that it will issue, after consulting the Council, a guidance document on a consistent application of Article 128(5) of the Agreement.

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(11) Pursuant to Article 129(4) of the Agreement, during the transition period, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union provided those agreements do not enter into force or apply during the transition period, unless so authorised by the Union. It is necessary to set out the conditions and procedure for granting such authorisations. Given the political significance of decisions granting such authorisations, it is appropriate to confer on the Council the power to adopt such authorisations by means of implementing acts, acting on a proposal from the Commission.

(12) The Agreement addresses, in separate protocols, the very specific situations of Ireland/ Northern Ireland, of the Sovereign Base Areas of the United Kingdom in Cyprus and of Gibraltar. Given the possible need for Ireland, the Republic of Cyprus and the Kingdom of Spain, respectively, to enter into such bilateral agreements with the United Kingdom as may be necessary for the proper functioning of the arrangements provided for in those specific protocols, it is necessary to set out the conditions and procedure for authorising the respective Member State to negotiate and conclude such bilateral agreements where these concern areas of exclusive Union competence. Given the political significance of decisions granting such authorisations, it is appropriate to confer on the Council the power to adopt such authorisations by means of implementing acts, acting on a proposal from the Commission.

(13) According to Article 18(1) and (4) of the Agreement, the host Member States are to issue to United Kingdom nationals, their respective family members and other persons who fall within the scope of Title II of Part Two of the Agreement a document evidencing their residence status in accordance with the Agreement. According to Article 26 of the Agreement, the Member State of work is to issue to United Kingdom nationals who have rights as frontier workers under the Agreement a document certifying their status of frontier worker under the Agreement. In order to ensure uniform conditions within the Union for the implementation of those provisions, with the aims of facilitating the recognition of such documents, in particular by border control authorities, and of preventing falsification and counterfeiting through high-level security features, implementing powers should be conferred on the Commission to establish the validity period, format of such documents and technical specifications for such documents, as well as the common statement that documents issued under Articles 18 and 26 of the Agreement are required to have, namely that they were issued in accordance with the Agreement. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(3)]. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95[(4)]. If necessary, such implementing acts may include appropriate measures to prevent the counterfeiting and falsification of such documents. In such case, they should be made available only to the bodies designated by the Member States as responsible for the printing and to persons duly authorised by a Member State or the Commission. Such implementing acts should be without prejudice to any special arrangements that Ireland may, by virtue of the Agreement, make with the United Kingdom relating to the movement of persons in the Common Travel Area.

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(14) In accordance with Article 106a of the Treaty establishing the European Atomic Energy Community, Article 50 TEU applies to the European Atomic Energy Community.

(15) As provided for in Article 50(4) TEU, the United Kingdom has not taken part in the discussions of the Council concerning this decision nor in its adoption,

HAS ADOPTED THIS DECISION:

Article 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 is hereby approved on behalf of the Union and of the European Atomic Energy Community.

The text of the Agreement is attached to this Decision.

Any references to the Union in this decision shall be understood as including the European Atomic Energy Community.

Article 2

1 The Commission shall represent the Union within the Joint Committee and the specialised committees provided for in Articles 164 and 165 of the Agreement, as well as in any further specialised committee as may be established in accordance with point (b) of Article 164(5) of the Agreement.

One or more Member States may request that the Commission representative be accompanied, as part of the Union delegation, by a representative of that or those Member States in a meeting of the Joint Committee or of a specialised committee in case particular matters to be addressed at that meeting are of a specific interest to that or those Member States. In particular, Ireland, the Republic of Cyprus and the Kingdom of Spain, respectively, may request that the Commission representative be accompanied by:

a a representative of Ireland, in the meetings of the Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland where those issues are specific to Ireland/Northern Ireland;

b a representative of the Republic of Cyprus, in the meetings of the Committee on issues related to the implementation of the Protocol relating to the Sovereign Base Areas in Cyprus;

c a representative of the Kingdom of Spain, in the meetings of the Committee on issues related to the implementation of the Protocol on Gibraltar.

2 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 in the Joint Committee and the specialised committees, the Commission shall ensure that the Council receives all the information and documents related to any meeting of the Joint Committee, to any meeting of a specialised committee or to any acts to be adopted by written procedure sufficiently in advance of that meeting or the usage of that written procedure.

The Council shall also be informed in a timely manner about the discussions and the outcome of the meetings of the Joint Committee, the meetings of the specialised committees and the written procedure, and shall receive draft minutes and all documents relating to such meetings or procedure.