

COUNCIL DECISION (EU) 2022/2575**of 19 December 2022**

on the position to be taken on behalf of the European Union within the Partnership Council 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, as regards the adoption of a decision establishing a list of individuals who are willing and able to serve as members of an arbitration tribunal under that Agreement

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(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) 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'), was concluded by Council Decision (EU) 2021/689 ⁽²⁾ and entered into force on 1 May 2021.
- (2) Pursuant to Article 752(1) of the Trade and Cooperation Agreement, the Partnership Council, established by Article 7(1) of that Agreement, is to establish a list of individuals who are willing and able to serve as members of an arbitration tribunal. The list is to be composed of three sub-lists: one sub-list of individuals established on the basis of proposals by the Union; one sub-list of individuals established on the basis of proposals by the United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom'); and one sub-list of individuals who are not nationals of either Party who are to serve as chairperson to the arbitration tribunal.
- (3) Each sub-list is to include at least five individuals.
- (4) Pursuant to Article 741(2) of the Trade and Cooperation Agreement, all arbitrators are to be persons whose independence is beyond doubt, who possess the qualifications required for appointment to high judicial office in their respective countries or who are jurisconsults of recognised competence. They are to have demonstrated expertise in law and international trade, including on specific matters covered by Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One or Heading Six of Part Two of the Trade and Cooperation Agreement, or in law and any other matter covered by that Agreement or by any supplementing agreement and, in the case of a chairperson, also have experience in dispute settlement procedures.
- (5) In accordance with Article 752(3) of the Trade and Cooperation Agreement, the list is not to comprise 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.
- (6) On the basis of the proposals of the Union and the United Kingdom, the Partnership Council is to agree on a sub-list of eight persons for the position of chairperson of the arbitration tribunal, and on two sub-lists of six persons for the position of members of the arbitration tribunal.

⁽¹⁾ OJ L 149, 30.4.2021, p. 10.

⁽²⁾ Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, 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, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (OJ L 149, 30.4.2021, p. 2).

- (7) The establishment of the position to be taken on behalf of the European Atomic Energy Community in the Partnership Council as regards matters falling under the Treaty establishing the European Atomic Energy Community is subject to a separate procedure.
- (8) It is appropriate to establish the position to be taken on the Union's behalf in the Partnership Council,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Partnership Council established by Article 7(1) 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 is set out in the draft Decision of the Partnership Council attached to this Decision.

Article 2

The decision of the Partnership Council shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels, 19 December 2022.

For the Council
The President
J. SÍKELA

DRAFT**DECISION NO ... OF THE PARTNERSHIP COUNCIL 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****OF ...****ESTABLISHING A LIST OF INDIVIDUALS WHO ARE WILLING AND ABLE TO SERVE AS MEMBERS OF AN ARBITRATION TRIBUNAL UNDER THE TRADE AND COOPERATION AGREEMENT**

THE PARTNERSHIP COUNCIL,

Having regard to 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 particular Article 752(1) thereof,

Whereas:

- (1) Pursuant to Article 752(1) of the Trade and Cooperation Agreement, the Partnership Council is to establish a list of individuals who are willing and able to serve as members of an arbitration tribunal. The list shall comprise at least 15 persons and be composed of three sub-lists: (a) one sub-list of individuals established on the basis of proposals by the Union; (b) one sub-list of individuals established on the basis of proposals by the United Kingdom; and (c) one sub-list of individuals who are not nationals of either Party who shall serve as chairperson to the arbitration tribunal.
- (2) Each sub-list shall include at least five individuals.
- (3) Pursuant to Article 741 of the Trade and Cooperation Agreement, all arbitrators shall be persons whose independence is beyond doubt, who possess the qualifications required for appointment to high judicial office in their respective countries or who are jurisconsults of recognised competence. They shall have demonstrated expertise in law and international trade, including on specific matters covered by Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One or Heading Six of Part Two, or in law and any other matter covered by the Trade and Cooperation Agreement or by any supplementing agreement and, in the case of a chairperson, also have experience in dispute settlement procedures.
- (4) In accordance with Article 752(3) of the Trade and Cooperation Agreement, the list shall not comprise 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.
- (5) On the basis of the proposals of the Union and the United Kingdom, it is appropriate for the Partnership Council to agree on the two sub-lists of six persons for the position of members of the arbitration tribunal, and on the sub-list of eight persons for the position of chairperson of the arbitration tribunal,

HAS ADOPTED THIS DECISION:

Article 1

The list of individuals willing and able to serve as arbitrators under 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, is set out in the Annex.

⁽¹⁾ OJ L 149, 30.4.2021, p. 10.

Article 2

This Decision shall enter into force on the day following that of its adoption.

Done at ...,

For the Partnership Council
The Co-chairs

ANNEX

- (a) Sub-list of individuals established on the basis of proposals by the Union:
- Laurence BOISSON DE CHAZOURNES
Irina BUGA
Hélène RUIZ FABRI
Michael HAHN
Crenguța LEAUA
Peter Leo Henri VAN DEN BOSSCHE
- (b) Sub-list of individuals established on the basis of proposals by the United Kingdom:
- Lorand Alexander BARTELS
Lawrence COLLINS
Jean E. KALICKI
Surya P. SUBEDI
David UNTERHALTER
Janet M. WHITTAKER
- (c) Sub-list of individuals who should serve as chairperson to the arbitration tribunal:
- Leora BLUMBERG
Thomas COTTIER
William J. DAVEY
Gavan GRIFFITH
Valerie HUGHES
Campbell MCLACHLAN
Penelope Jane RIDINGS
J. Christopher THOMAS
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