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2019/0240 (NLE)

Proposal for a

COUNCIL DECISION

amending Decision (EU) 2019/274 on 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

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

On 29 March 2017, the United Kingdom notified the European Council pursuant to Article 50 of the Treaty on European Union (TEU) of its intention to withdraw from the European Union and from the European Atomic Energy Community. In accordance with that provision, the European Union negotiated with the United Kingdom an agreement setting out the arrangements for its withdrawal (hereinafter “the Withdrawal Agreement”), taking account of the framework for its future relationship with the Union.

On 25 November 2018, the European Council (Art. 50) endorsed the Withdrawal Agreement and approved a Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom (the “Political Declaration”), as agreed at negotiators’ level. In the statements to the minutes of the European Council meeting of 25 November 2018, two declarations of the European Council and of the Commission have been included: an interpretative declaration on Article 184 of the Withdrawal Agreement, and a declaration on the territorial scope of the future agreements. On 5 December 2018, the Commission presented proposals for a Council Decision on 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 (COM(2018)833), and a Council Decision 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 (COM(2018)834).

On 11 January 2019, the Council adopted Decision (EU) 2019/274 authorising the signature of the Withdrawal Agreement¹ and transmitted the draft Council Decision on the conclusion of the Withdrawal Agreement to the European Parliament for its consent.

However, the Government of the United Kingdom did not obtain the necessary support from its Parliament to proceed with the signature and ratification of the Withdrawal Agreement and requested the European Council to extend the period foreseen in Article 50(3) TEU. The European Council granted initially an extension until 12 April 2019², and subsequently a further extension until 31 October 2019.³ As a result, the date of entry into force of the Withdrawal Agreement had to be adjusted accordingly and, on a proposal from the Commission (COM(2019)97), the Council adopted on 13 April 2019 Decision 2019/642 amending Decision (EU) 2019/274 on the signing of the adapted text of the Withdrawal Agreement.⁴

¹ Council Decision (EU) 2019/274 of 11 January 2019 on 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 (OJ L 47I, 19.2.2019, p. 1). The text of the Withdrawal Agreement attached to Decision (EU) 2019/274 was published in OJ C 66 I, 19.2.2019, p. 1.

² European Council Decision (EU) 2019/476 taken in agreement with the United Kingdom of 22 March 2019 extending the period under Article 50(3) TEU (OJ L 80 I, 22.3.2019, p. 1).

³ European Council Decision (EU) 2019/584 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3) TEU (OJ L 101, 11.4.2019, p. 1).

⁴ Council Decision (EU) 2019/642 of 13 April 2019 amending Decision (EU) 2019/274 on 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

Following the resignation of Theresa May as Prime-Minister of the United Kingdom, the new United Kingdom Government sought the replacement of the Protocol on Ireland/Northern Ireland attached to the Withdrawal Agreement endorsed on 25 November 2018 by the European Council. The United Kingdom Government also sought amendments to the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland (hereinafter “the Political Declaration”⁵) approved on 25 November 2018, with a view to reflecting the different level of ambition of the United Kingdom Government for the future relationship with the Union. Discussions between the Union and United Kingdom negotiators resumed in September 2019.

On 17 October 2019, the negotiators reached an agreement on a revised text of the Protocol on Ireland/Northern Ireland and on the necessary technical adaptations to Articles 184 and 185 of the Withdrawal Agreement, as well as an on a revised Political Declaration. The United Kingdom Government signalled its approval for the two texts agreed at negotiators’ level on 17 October 2019. On the same date, the European Council, on the basis of a recommendation from the President of the Commission, endorsed the revised Withdrawal Agreement and approved the revised Political Declaration, as agreed at negotiators’ level. It is therefore necessary to amend Decision (EU) 2019/274 on the signing of the Withdrawal Agreement accordingly.

and the European Atomic Energy Community, (OJ L 110 I, 25.4.2019, p. 1). The text of the Withdrawal Agreement attached to Decision (EU) 2019/642 was published in OJ C 144 I, 25.4.2019, p. 1.

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The text of the Political Declaration was published in OJ C 66 I, 19.2.2019, p. 1.

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(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the European Union and the European Atomic Energy Community ('Euratom') in accordance with Article 50 of the Treaty on European Union ('TEU'), which applies to Euratom by virtue of Article 106a of the Treaty establishing the European Atomic Energy Community.
- (2) In accordance with Article 50 TEU, the European Union negotiated with the United Kingdom an agreement setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union ('Withdrawal Agreement').
- (3) On 11 January 2019, the Council adopted Decision (EU) 2019/274¹ on the signing of the Withdrawal Agreement.
- (4) By Decision (EU) 2019/476², the European Council, in agreement with the United Kingdom, initially decided to extend the period under Article 50(3) TEU until 12 April 2019. That period was further extended until 31 October 2019 by Decision (EU) 2019/584³ of the European Council, taken in agreement with the United Kingdom.

¹ Council Decision (EU) 2019/274 of 11 January 2019 on 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 (OJ L 47I, 19.2.2019, p. 1). The text of the Withdrawal Agreement attached to Decision (EU) 2019/274 was published in OJ C 66 I, 19.2.2019, p. 1.

² European Council Decision (EU) 2019/476 taken in agreement with the United Kingdom of 22 March 2019 extending the period under Article 50(3) TEU (OJ L 80 I, 22.3.2019, p. 1).

³ European Council Decision (EU) 2019/584 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3) TEU (OJ L 101, 11.4.2019, p. 1).

- (5) As a result, the date of entry into force of the Withdrawal Agreement had to be adjusted accordingly, and Council Decision (EU) 2019/274 on the signing of the Withdrawal Agreement was amended to take account of the adapted text of the Withdrawal Agreement.⁴
- (6) Following negotiations between the Union and the United Kingdom negotiators during the months of September and October 2019, an agreement was reached on a revised text of the Protocol on Ireland/Northern Ireland included in the Withdrawal Agreement and on necessary technical adaptations to Articles 184 and 185 of that Agreement. On 17 October 2019, the European Council endorsed the amended Withdrawal Agreement.
- (7) Decision (EU) 2019/274 should therefore be amended accordingly.
- (8) 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 second paragraph of Article 1 of Decision (EU) 2019/274 is replaced by the following:

'The text of the Agreement, as amended, is attached to this Decision.'

Article 2

The text of the Agreement attached to Decision (EU) 2019/274 is replaced by the text of the amended Agreement attached to this Decision.

Article 3

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

Done at Brussels,

For the Council
The President

⁴ Council Decision (EU) 2019/642 of 13 April 2019 amending Decision (EU) 2019/274 on 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, (OJ L 110 I, 25.4.2019, p. 1). The text of the Withdrawal Agreement attached to Decision (EU) 2019/642 was published in OJ C 144 I, 25.4.2019, p. 1.