



2023/2856

18.12.2023

COUNCIL DECISION (EU) 2023/2856

of 7 December 2023

on the position to be taken on behalf of the European Union within the Cooperation Committee meeting in trade configuration established by the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, as regards the establishment of a list of 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part ⁽¹⁾ (the 'Agreement'), was concluded by the Union by means of Council Decision (EU) 2020/244 ⁽²⁾ and entered into force on 1 March 2020.
- (2) Pursuant to Article 196(1) of the Agreement, the Cooperation Committee meeting in trade configuration (the 'Cooperation Committee'), as provided for in Article 269(5) of the Agreement, is to establish, no later than 6 months after the entry into force of the Agreement, a list of at least 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings (the 'list of arbitrators'). The list of arbitrators is to be composed of three sub-lists, each including at least five individuals: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party and who can serve as chairperson of the arbitration panel.
- (3) On the basis of proposals made by the Parties, at its next meeting, the Cooperation Committee is expected to adopt a decision establishing the list of arbitrators.
- (4) It is appropriate to establish the position to be taken on the Union's behalf within the Cooperation Committee with regard to the establishment of the list of arbitrators, as the envisaged decision of the Cooperation Committee will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Cooperation Committee meeting in trade configuration (the 'Cooperation Committee') established by the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, as regards the establishment of a list of individuals who are willing and able to serve as arbitrators, in accordance with Article 196(1) of the Agreement, in dispute settlement proceedings shall be based on the draft Decision of the Cooperation Committee attached to this Decision.

Article 2

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

⁽¹⁾ OJ L 29, 4.2.2016, p. 3.

⁽²⁾ Council Decision (EU) 2020/244 of 20 January 2020 on the conclusion, on behalf of the Union, of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 52, 25.2.2020, p. 1).

Done at Brussels, 7 December 2023.

For the Council
The President
J. HEREU BOHER

DRAFT

DECISION No .../2023 OF THE COOPERATION COMMITTEE MEETING IN TRADE CONFIGURATION

of ...

on the establishment of a list of arbitrators pursuant to Article 196(1) of the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part

THE COOPERATION COMMITTEE MEETING IN TRADE CONFIGURATION,

Having regard to the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (the 'Agreement'), and in particular Article 196(1) thereof,

Whereas:

- (1) Pursuant to Article 196(1) of the Agreement, the Cooperation Committee meeting in trade configuration (the 'Cooperation Committee'), as provided for in Article 269(5) of the Agreement, is to establish, no later than 6 months after the entry into force of the Agreement, a list of at least 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings (the 'list of arbitrators').
- (2) Article 196(1) of the Agreement provides that the list of arbitrators is to be composed of three sub-lists, each including at least five individuals: one sub-list for each Party and one sub-list of individuals who are not nationals of either Party and who can serve as chairperson of the arbitration panel. Article 196(2) of the Agreement requires that the arbitrators have specialised knowledge and experience of law and international trade.
- (3) The European Union and the Republic of Kazakhstan have each proposed five candidates to serve as arbitrators and have agreed on five third-country nationals to serve as chairperson of the arbitration panel. All of those individuals are willing and able to serve as arbitrators and to comply with the conditions set out in Article 196 of the Agreement.
- (4) In order to ensure the proper functioning of the Agreement and in particular Chapter 14 of Title III thereof, the list of arbitrators should be established by the Cooperation Committee,

HAS ADOPTED THIS DECISION:

Article 1

The list of 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings under the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, is hereby established pursuant to Article 196(1) of that Agreement.

The list of arbitrators is set out in the Annex to this Decision.

Article 2

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

Done at ...,

*For the Cooperation Committee
The Chair*

ANNEX

LIST OF ARBITRATORS REFERRED TO IN ARTICLE 196(1) OF THE ENHANCED PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF KAZAKHSTAN, OF THE OTHER PART

Arbitrators proposed by the European Union

1. Claudia ANNACKER
2. Maria Chiara MALAGUTI
3. Danae AZARIA
4. Irina BUGA
5. Pierre D'ARGENT

Arbitrators proposed by the Republic of Kazakhstan

1. Gani BITENOV
2. Miras DAULENOV
3. Aigoul KENJEBAYEVA
4. Marat SARSENBAYEV
5. Farhad KARAGUSSOV

Chairpersons

1. Ichiro ARAKI (Japan)
 2. Penelope Jane RIDINGS (New Zealand)
 3. Ujal Singh BHATIA (India)
 4. Valerie HUGHES (Canada)
 5. Thomas COTTIER (Switzerland)
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