

## II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

COUNCIL

AGREEMENT

**on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the  
European Union and the European Atomic Energy Community**

(2019/C 66 I/01)

PREAMBLE

THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

AND

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

CONSIDERING that on 29 March 2017 the United Kingdom of Great Britain and Northern Ireland ('United Kingdom'), following the outcome of a referendum held in the United Kingdom and its sovereign decision to leave the European Union, notified its intention to withdraw from the European Union ('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 ('Euratom Treaty'),

WISHING to set out the arrangements for the withdrawal of the United Kingdom from the Union and Euratom, taking account of the framework for their future relationship,

NOTING the guidelines of 29 April and 15 December 2017 and of 23 March 2018 provided by the European Council in the light of which the Union is to conclude the Agreement setting out the arrangements for the withdrawal of the United Kingdom from the Union and Euratom,

RECALLING that, pursuant to Article 50 TEU, in conjunction with Article 106a of the Euratom Treaty, and subject to the arrangements laid down in this Agreement, the law of the Union and of Euratom in its entirety ceases to apply to the United Kingdom from the date of entry into force of this Agreement,

STRESSING that the objective of this Agreement is to ensure an orderly withdrawal of the United Kingdom from the Union and Euratom,

RECOGNISING that it is necessary to provide reciprocal protection for Union citizens and for United Kingdom nationals, as well as their respective family members, where they have exercised free movement rights before a date set in this Agreement, and to ensure that their rights under this Agreement are enforceable and based on the principle of non-discrimination; recognising also that rights deriving from periods of social security insurance should be protected,

RESOLVED to ensure an orderly withdrawal through various separation provisions aiming to prevent disruption and to provide legal certainty to citizens and economic operators as well as to judicial and administrative authorities in the Union and in the United Kingdom, while not excluding the possibility of relevant separation provisions being superseded by the agreement(s) on the future relationship,

CONSIDERING that it is in the interest of both the Union and the United Kingdom to determine a transition or implementation period during which – notwithstanding all consequences of the United Kingdom's withdrawal from the Union as regards the United Kingdom's participation in the institutions, bodies, offices and agencies of the Union, in particular the end, on the date of entry into force of this Agreement, of the mandates of all members of institutions, bodies

and agencies of the Union nominated, appointed or elected in relation to the United Kingdom's membership of the Union – Union law, including international agreements, should be applicable to and in the United Kingdom, and, as a general rule, with the same effect as regards the Member States, in order to avoid disruption in the period during which the agreement(s) on the future relationship will be negotiated,

RECOGNISING that, even if Union law will be applicable to and in the United Kingdom during the transition period, the specificities of the United Kingdom as a State having withdrawn from the Union mean that it will be important for the United Kingdom to be able to take steps to prepare and establish new international arrangements of its own, including in areas of Union exclusive competence, provided such agreements do not enter into force or apply during that period, unless so authorised by the Union,

RECALLING that the Union and the United Kingdom have agreed to honour the mutual commitments undertaken while the United Kingdom was a member of the Union through a single financial settlement,

CONSIDERING that in order to guarantee the correct interpretation and application of this Agreement and compliance with the obligations under this Agreement, it is essential to establish provisions ensuring overall governance, in particular binding dispute-settlement and enforcement rules that fully respect the autonomy of the respective legal orders of the Union and of the United Kingdom as well as the United Kingdom's status as a third country,

ACKNOWLEDGING that, for an orderly withdrawal of the United Kingdom from the Union, it is also necessary to establish, in separate protocols to this Agreement, durable arrangements addressing the very specific situations relating to Ireland/Northern Ireland and to the Sovereign Base Areas in Cyprus,

ACKNOWLEDGING further that, for an orderly withdrawal of the United Kingdom from the Union, it is also necessary to establish, in a separate protocol to this Agreement, the specific arrangements in respect of Gibraltar applicable in particular during the transition period,

UNDERLINING that this Agreement is founded on an overall balance of benefits, rights and obligations for the Union and the United Kingdom,

NOTING that in parallel with this Agreement, the Parties have made a Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland,

CONSIDERING that there is a need for both the United Kingdom and the Union to take all necessary steps to begin as soon as possible after 29 March 2019 the formal negotiations of one or several agreements governing their future relationship with a view to ensuring that, to the extent possible, those agreements apply from the end of the transition period,

HAVE AGREED AS FOLLOWS:

#### PART ONE

### COMMON PROVISIONS

#### *Article 1*

#### **Objective**

This Agreement sets out the arrangements for the withdrawal of the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') from the European Union ('Union') and from the European Atomic Energy Community ('Euratom').

#### *Article 2*

#### **Definitions**

For the purposes of this Agreement, the following definitions shall apply:

(a) 'Union law' means:

- (i) the Treaty on European Union ('TEU'), the Treaty on the Functioning of the European Union ('TFEU') and the Treaty establishing the European Atomic Energy Community ('Euratom Treaty'), as amended or supplemented, as well as the Treaties of Accession and the Charter of Fundamental Rights of the European Union, together referred to as 'the Treaties';
- (ii) the general principles of the Union's law;

- (iii) the acts adopted by the institutions, bodies, offices or agencies of the Union;
  - (iv) the international agreements to which the Union is party and the international agreements concluded by the Member States acting on behalf of the Union;
  - (v) the agreements between Member States entered into in their capacity as Member States of the Union;
  - (vi) acts of the Representatives of the Governments of the Member States meeting within the European Council or the Council of the European Union ('Council');
  - (vii) the declarations made in the context of intergovernmental conferences which adopted the Treaties;
- (b) 'Member States' means the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden;
- (c) 'Union citizen' means any person holding the nationality of a Member State;
- (d) 'United Kingdom national' means a national of the United Kingdom, as defined in the New Declaration by the Government of the United Kingdom of Great Britain and Northern Ireland of 31 December 1982 on the definition of the term 'nationals' <sup>(1)</sup> together with Declaration No 63 annexed to the Final Act of the intergovernmental conference which adopted the Treaty of Lisbon <sup>(2)</sup>;
- (e) 'transition period' means the period provided in Article 126;
- (f) 'day' means a calendar day, unless otherwise provided in this Agreement or in provisions of Union law made applicable by this Agreement.

### Article 3

#### Territorial scope

1. Unless otherwise provided in this Agreement or in Union law made applicable by this Agreement, any reference in this Agreement to the United Kingdom or its territory shall be understood as referring to:

- (a) the United Kingdom;
- (b) Gibraltar, to the extent that Union law was applicable to it before the date of entry into force of this Agreement;
- (c) the Channel Islands and the Isle of Man, to the extent that Union law was applicable to them before the date of entry into force of this Agreement;
- (d) the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus, to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union;
- (e) the overseas countries and territories listed in Annex II to the TFEU having special relations with the United Kingdom <sup>(3)</sup>, where the provisions of this Agreement relate to the special arrangements for the association of the overseas countries and territories with the Union.

2. Unless otherwise provided in this Agreement or in Union law made applicable by this Agreement, any reference in this Agreement to Member States, or their territory, shall be understood as covering the territories of the Member States to which the Treaties apply as provided in Article 355 TFEU.

<sup>(1)</sup> OJ C 23, 28.1.1983, p. 1.

<sup>(2)</sup> OJ C 306, 17.12.2007, p. 270.

<sup>(3)</sup> Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Saint Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, and Turks and Caicos Islands.

*Article 4***Methods and principles relating to the effect, the implementation and the application of this Agreement**

1. The provisions of this Agreement and the provisions of Union law made applicable by this Agreement shall produce in respect of and in the United Kingdom the same legal effects as those which they produce within the Union and its Member States.

Accordingly, legal or natural persons shall in particular be able to rely directly on the provisions contained or referred to in this Agreement which meet the conditions for direct effect under Union law.

2. The United Kingdom shall ensure compliance with paragraph 1, including as regards the required powers of its judicial and administrative authorities to disapply inconsistent or incompatible domestic provisions, through domestic primary legislation.

3. The provisions of this Agreement referring to Union law or to concepts or provisions thereof shall be interpreted and applied in accordance with the methods and general principles of Union law.

4. The provisions of this Agreement referring to Union law or to concepts or provisions thereof shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union handed down before the end of the transition period.

5. In the interpretation and application of this Agreement, the United Kingdom's judicial and administrative authorities shall have due regard to relevant case law of the Court of Justice of the European Union handed down after the end of the transition period.

*Article 5***Good faith**

The Union and the United Kingdom shall, in full mutual respect and good faith, assist each other in carrying out tasks which flow from this Agreement.

They shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising from this Agreement and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement.

This Article is without prejudice to the application of Union law pursuant to this Agreement, in particular the principle of sincere cooperation.

*Article 6***References to Union law**

1. With the exception of Parts Four and Five, unless otherwise provided in this Agreement all references in this Agreement to Union law shall be understood as references to Union law, including as amended or replaced, as applicable on the last day of the transition period.

2. Where in this Agreement reference is made to Union acts or provisions thereof, such reference shall, where relevant, be understood to include a reference to Union law or provisions thereof that, although replaced or superseded by the act referred to, continue to apply in accordance with that act.

3. For the purposes of this Agreement, references to provisions of Union law made applicable by this Agreement shall be understood to include references to the relevant Union acts supplementing or implementing those provisions.

*Article 7***References to the Union and to Member States**

1. For the purposes of this Agreement, all references to Member States and competent authorities of Member States in provisions of Union law made applicable by this Agreement shall be understood as including the United Kingdom and its competent authorities, except as regards:

(a) the nomination, appointment or election of members of the institutions, bodies, offices and agencies of the Union, as well as the participation in the decision-making and the attendance in the meetings of the institutions;

- (b) the participation in the decision-making and governance of the bodies, offices and agencies of the Union;
- (c) the attendance in the meetings of the committees referred to in Article 3(2) of Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(4)</sup>, of Commission expert groups or of other similar entities, or in the meetings of expert groups or similar entities of bodies, offices and agencies of the Union, unless otherwise provided in this Agreement.

2. Unless otherwise provided in this Agreement, any reference to the Union shall be understood as including Euratom.

#### *Article 8*

### **Access to networks, information systems and databases**

Unless otherwise provided in this Agreement, at the end of the transition period the United Kingdom shall cease to be entitled to access any network, any information system and any database established on the basis of Union law. The United Kingdom shall take appropriate measures to ensure that it does not access a network, information system or database which it is no longer entitled to access.

#### PART TWO

#### **CITIZENS' RIGHTS**

##### *TITLE I*

#### **General provisions**

#### *Article 9*

#### **Definitions**

For the purposes of this Part, and without prejudice to Title III, the following definitions shall apply:

- (a) 'family members' means the following persons, irrespective of their nationality, who fall within the personal scope provided for in Article 10 of this Agreement:
  - (i) family members of Union citizens or family members of United Kingdom nationals as defined in point (2) of Article 2 of Directive 2004/38/EC of the European Parliament and of the Council <sup>(5)</sup>;
  - (ii) persons other than those defined in Article 3(2) of Directive 2004/38/EC whose presence is required by Union citizens or United Kingdom nationals in order not to deprive those Union citizens or United Kingdom nationals of a right of residence granted by this Part;
- (b) 'frontier workers' means Union citizens or United Kingdom nationals who pursue an economic activity in accordance with Article 45 or 49 TFEU in one or more States in which they do not reside;
- (c) 'host State' means:
  - (i) in respect of Union citizens and their family members, the United Kingdom, if they exercised their right of residence there in accordance with Union law before the end of the transition period and continue to reside there thereafter;
  - (ii) in respect of United Kingdom nationals and their family members, the Member State in which they exercised their right of residence in accordance with Union law before the end of the transition period and in which they continue to reside thereafter;
- (d) 'State of work' means:
  - (i) in respect of Union citizens, the United Kingdom, if they pursued an economic activity as frontier workers there before the end of the transition period and continue to do so thereafter;
  - (ii) in respect of United Kingdom nationals, a Member State in which they pursued an economic activity as frontier workers before the end of the transition period and in which they continue to do so thereafter;

<sup>(4)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(5)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (e) 'rights of custody' means rights of custody within the meaning of point (9) of Article 2 of Council Regulation (EC) No 2201/2003 <sup>(6)</sup>, including rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.

#### Article 10

#### Personal scope

1. Without prejudice to Title III, this Part shall apply to the following persons:
- (a) Union citizens who exercised their right to reside in the United Kingdom in accordance with Union law before the end of the transition period and continue to reside there thereafter;
  - (b) United Kingdom nationals who exercised their right to reside in a Member State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
  - (c) Union citizens who exercised their right as frontier workers in the United Kingdom in accordance with Union law before the end of the transition period and continue to do so thereafter;
  - (d) United Kingdom nationals who exercised their right as frontier workers in one or more Member States in accordance with Union law before the end of the transition period and continue to do so thereafter;
  - (e) family members of the persons referred to in points (a) to (d), provided that they fulfil one of the following conditions:
    - (i) they resided in the host State in accordance with Union law before the end of the transition period and continue to reside there thereafter;
    - (ii) they were directly related to a person referred to in points (a) to (d) and resided outside the host State before the end of the transition period, provided that they fulfil the conditions set out in point (2) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph;
    - (iii) they were born to, or legally adopted by, persons referred to in points (a) to (d) after the end of the transition period, whether inside or outside the host State, and fulfil the conditions set out in point (2)(c) of Article 2 of Directive 2004/38/EC at the time they seek residence under this Part in order to join the person referred to in points (a) to (d) of this paragraph and fulfil one of the following conditions:
      - both parents are persons referred to in points (a) to (d);
      - one parent is a person referred to in points (a) to (d) and the other is a national of the host State; or
      - one parent is a person referred to in points (a) to (d) and has sole or joint rights of custody of the child, in accordance with the applicable rules of family law of a Member State or of the United Kingdom, including applicable rules of private international law under which rights of custody established under the law of a third State are recognised in the Member State or in the United Kingdom, in particular as regards the best interests of the child, and without prejudice to the normal operation of such applicable rules of private international law <sup>(7)</sup>;
  - (f) family members who resided in the host State in accordance with Articles 12 and 13, Article 16(2) and Articles 17 and 18 of Directive 2004/38/EC before the end of the transition period and continue to reside there thereafter.
2. Persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC whose residence was facilitated by the host State in accordance with its national legislation before the end of the transition period in accordance with Article 3(2) of that Directive shall retain their right of residence in the host State in accordance with this Part, provided that they continue to reside in the host State thereafter.

<sup>(6)</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

<sup>(7)</sup> The notion of rights of custody is to be interpreted in accordance with point (9) of Article 2 of Regulation (EC) No 2201/2003. Therefore, it covers rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.

3. Paragraph 2 shall also apply to persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC who have applied for facilitation of entry and residence before the end of the transition period, and whose residence is being facilitated by the host State in accordance with its national legislation thereafter.

4. Without prejudice to any right to residence which the persons concerned may have in their own right, the host State shall, in accordance with its national legislation and in accordance with point (b) of Article 3(2) of Directive 2004/38/EC, facilitate entry and residence for the partner with whom the person referred to in points (a) to (d) of paragraph 1 of this Article has a durable relationship, duly attested, where that partner resided outside the host State before the end of the transition period, provided that the relationship was durable before the end of the transition period and continues at the time the partner seeks residence under this Part.

5. In the cases referred to in paragraphs 3 and 4, the host State shall undertake an extensive examination of the personal circumstances of the persons concerned and shall justify any denial of entry or residence to such persons.

#### Article 11

### **Continuity of residence**

Continuity of residence for the purposes of Articles 9 and 10 shall not be affected by absences as referred to in Article 15(2).

The right of permanent residence acquired under Directive 2004/38/EC before the end of the transition period shall not be treated as lost through absence from the host State for a period specified in Article 15(3).

#### Article 12

### **Non-discrimination**

Within the scope of this Part, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality within the meaning of the first subparagraph of Article 18 TFEU shall be prohibited in the host State and the State of work in respect of the persons referred to in Article 10 of this Agreement.

#### TITLE II

### **Rights and obligations**

#### Chapter 1

### **Rights related to residence, residence documents**

#### Article 13

### **Residence rights**

1. Union citizens and United Kingdom nationals shall have the right to reside in the host State under the limitations and conditions as set out in Articles 21, 45 or 49 TFEU and in Article 6(1), points (a), (b) or (c) of Article 7(1), Article 7(3), Article 14, Article 16(1) or Article 17(1) of Directive 2004/38/EC.

2. Family members who are either Union citizens or United Kingdom nationals shall have the right to reside in the host State as set out in Article 21 TFEU and in Article 6(1), point (d) of Article 7(1), Article 12(1) or (3), Article 13(1), Article 14, Article 16(1) or Article 17(3) and (4) of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.

3. Family members who are neither Union citizens nor United Kingdom nationals shall have the right to reside in the host State under Article 21 TFEU and as set out in Article 6(2), Article 7(2), Article 12(2) or (3), Article 13(2), Article 14, Article 16(2), Article 17(3) or (4) or Article 18 of Directive 2004/38/EC, subject to the limitations and conditions set out in those provisions.

4. The host State may not impose any limitations or conditions for obtaining, retaining or losing residence rights on the persons referred to in paragraphs 1, 2 and 3, other than those provided for in this Title. There shall be no discretion in applying the limitations and conditions provided for in this Title, other than in favour of the person concerned.

*Article 14***Right of exit and of entry**

1. Union citizens and United Kingdom nationals, their respective family members, and other persons, who reside in the territory of the host State in accordance with the conditions set out in this Title shall have the right to leave the host State and the right to enter it, as set out in Article 4(1) and the first subparagraph of Article 5(1) of Directive 2004/38/EC, with a valid passport or national identity card in the case of Union citizens and United Kingdom nationals, and with a valid passport in the case of their respective family members and other persons who are not Union citizens or United Kingdom nationals.

Five years after the end of the transition period, the host State may decide no longer to accept national identity cards for the purposes of entry to or exit from its territory if such cards do not include a chip that complies with the applicable International Civil Aviation Organisation standards related to biometric identification.

2. No exit visa, entry visa or equivalent formality shall be required of holders of a valid document issued in accordance with Article 18 or 26.

3. Where the host State requires family members who join the Union citizen or United Kingdom national after the end of the transition period to have an entry visa, the host State shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible, and on the basis of an accelerated procedure.

*Article 15***Right of permanent residence**

1. Union citizens and United Kingdom nationals, and their respective family members, who have resided legally in the host State in accordance with Union law for a continuous period of 5 years or for the period specified in Article 17 of Directive 2004/38/EC, shall have the right to reside permanently in the host State under the conditions set out in Articles 16, 17 and 18 of Directive 2004/38/EC. Periods of legal residence or work in accordance with Union law before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

2. Continuity of residence for the purposes of acquisition of the right of permanent residence shall be determined in accordance with Article 16(3) and Article 21 of Directive 2004/38/EC.

3. Once acquired, the right of permanent residence shall be lost only through absence from the host State for a period exceeding 5 consecutive years.

*Article 16***Accumulation of periods**

Union citizens and United Kingdom nationals, and their respective family members, who before the end of the transition period resided legally in the host State in accordance with the conditions of Article 7 of Directive 2004/38/EC for a period of less than 5 years, shall have the right to acquire the right to reside permanently under the conditions set out in Article 15 of this Agreement once they have completed the necessary periods of residence. Periods of legal residence or work in accordance with Union law before and after the end of the transition period shall be included in the calculation of the qualifying period necessary for acquisition of the right of permanent residence.

*Article 17***Status and changes**

1. The right of Union citizens and United Kingdom nationals, and their respective family members, to rely directly on this Part shall not be affected when they change status, for example between student, worker, self-employed person and economically inactive person. Persons who, at the end of the transition period, enjoy a right of residence in their capacity as family members of Union citizens or United Kingdom nationals, cannot become persons referred to in points (a) to (d) of Article 10(1).

2. The rights provided for in this Title for the family members who are dependants of Union citizens or United Kingdom nationals before the end of the transition period, shall be maintained even after they cease to be dependants.



## Article 18

**Issuance of residence documents**

1. The host State may require Union citizens or United Kingdom nationals, their respective family members and other persons, who reside in its territory in accordance with the conditions set out in this Title, to apply for a new residence status which confers the rights under this Title and a document evidencing such status which may be in a digital form.

Applying for such a residence status shall be subject to the following conditions:

- (a) the purpose of the application procedure shall be to verify whether the applicant is entitled to the residence rights set out in this Title. Where that is the case, the applicant shall have a right to be granted the residence status and the document evidencing that status;
- (b) the deadline for submitting the application shall not be less than 6 months from the end of the transition period, for persons residing in the host State before the end of the transition period.

For persons who have the right to commence residence after the end of the transition period in the host State in accordance with this Title, the deadline for submitting the application shall be 3 months after their arrival or the expiry of the deadline referred to in the first subparagraph, whichever is later.

A certificate of application for the residence status shall be issued immediately;

- (c) the deadline for submitting the application referred to in point (b) shall be extended automatically by 1 year where the Union has notified the United Kingdom, or the United Kingdom has notified the Union, that technical problems prevent the host State either from registering the application or from issuing the certificate of application referred to in point (b). The host State shall publish that notification and shall provide appropriate public information for the persons concerned in good time;
- (d) where the deadline for submitting the application referred to in point (b) is not respected by the persons concerned, the competent authorities shall assess all the circumstances and reasons for not respecting the deadline and shall allow those persons to submit an application within a reasonable further period of time if there are reasonable grounds for the failure to respect the deadline;
- (e) the host State shall ensure that any administrative procedures for applications are smooth, transparent and simple, and that any unnecessary administrative burdens are avoided;
- (f) application forms shall be short, simple, user friendly and adapted to the context of this Agreement; applications made by families at the same time shall be considered together;
- (g) the document evidencing the status shall be issued free of charge or for a charge not exceeding that imposed on citizens or nationals of the host State for the issuing of similar documents;
- (h) persons who, before the end of the transition period, hold a valid permanent residence document issued under Article 19 or 20 of Directive 2004/38/EC or hold a valid domestic immigration document conferring a permanent right to reside in the host State, shall have the right to exchange that document within the period referred to in point (b) of this paragraph for a new residence document upon application after a verification of their identity, a criminality and security check in accordance with point (p) of this paragraph and confirmation of their ongoing residence; such new residence documents shall be issued free of charge;
- (i) the identity of the applicants shall be verified through the presentation of a valid passport or national identity card for Union citizens and United Kingdom nationals, and through the presentation of a valid passport for their respective family members and other persons who are not Union citizens or United Kingdom nationals; the acceptance of such identity documents shall not be made conditional upon any criteria other than that of the validity of the document. Where the identity document is retained by the competent authorities of the host State while the application is pending, the host State shall return that document upon application without delay, before the decision on the application has been taken;
- (j) supporting documents other than identity documents, such as civil status documents, may be submitted in copy. Originals of supporting documents may be required only in specific cases where there is a reasonable doubt as to the authenticity of the supporting documents submitted;
- (k) the host State may only require Union citizens and United Kingdom nationals to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(3) of Directive 2004/38/EC:
  - (i) where they reside in the host State in accordance with point (a) of Article 7(1) of Directive 2004/38/EC as workers or self-employed, a confirmation of engagement from the employer or a certificate of employment, or proof that they are self-employed;

- (ii) where they reside in the host State in accordance with point (b) of Article 7(1) of Directive 2004/38/EC as economically inactive persons, evidence that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence and that they have comprehensive sickness insurance cover in the host State; or
- (iii) where they reside in the host State in accordance with point (c) of Article 7(1) of Directive 2004/38/EC as students, proof of enrolment at an establishment accredited or financed by the host State on the basis of its legislation or administrative practice, proof of comprehensive sickness insurance cover, and a declaration or equivalent means of proof, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host State during their period of residence. The host State may not require such declarations to refer to any specific amount of resources.

With regard to the condition of sufficient resources, Article 8(4) of Directive 2004/38/EC shall apply;

- (l) the host State may only require family members who fall under point (e)(i) of Article 10(1) or Article 10(2) or (3) of this Agreement and who reside in the host State in accordance with point (d) of Article 7(1) or Article 7(2) of Directive 2004/38/EC to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Article 8(5) or 10(2) of Directive 2004/38/EC:
  - (i) a document attesting to the existence of a family relationship or registered partnership;
  - (ii) the registration certificate or, in the absence of a registration system, any other proof that the Union citizen or the United Kingdom national with whom they reside actually resides in the host State;
  - (iii) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line, and for those of the spouse or registered partner, documentary evidence that the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC are fulfilled;
  - (iv) for the persons referred to in Article 10(2) or (3) of this Agreement, a document issued by the relevant authority in the host State in accordance with Article 3(2) of Directive 2004/38/EC.

With regard to the condition of sufficient resources as concerns family members who are themselves Union citizens or United Kingdom nationals, Article 8(4) of Directive 2004/38/EC shall apply;

- (m) the host State may only require family members who fall under point (e)(ii) of Article 10(1) or Article 10(4) of this Agreement to present, in addition to the identity documents referred to in point (i) of this paragraph, the following supporting documents as referred to in Articles 8(5) and 10(2) of Directive 2004/38/EC:
  - (i) a document attesting to the existence of a family relationship or of a registered partnership;
  - (ii) the registration certificate or, in the absence of a registration system, any other proof of residence in the host State of the Union citizen or of the United Kingdom nationals whom they are joining in the host State;
  - (iii) for spouses or registered partners, a document attesting to the existence of a family relationship or a registered partnership before the end of the transition period;
  - (iv) for direct descendants who are under the age of 21 or who are dependants and dependent direct relatives in the ascending line and those of the spouse or registered partner, documentary evidence that they were related to Union citizens or United Kingdom nationals before the end of the transition period and fulfil the conditions set out in point (c) or (d) of Article 2(2) of Directive 2004/38/EC relating to age or dependence;
  - (v) for the persons referred to in Article 10(4) of this Agreement, proof that a durable relationship with Union citizens or United Kingdom nationals existed before the end of the transition period and continues to exist thereafter;
- (n) for cases other than those set out in points (k), (l) and (m), the host State shall not require applicants to present supporting documents that go beyond what is strictly necessary and proportionate to provide evidence that the conditions relating to the right of residence under this Title have been fulfilled;
- (o) the competent authorities of the host State shall help the applicants to prove their eligibility and to avoid any errors or omissions in their applications; they shall give the applicants the opportunity to furnish supplementary evidence and to correct any deficiencies, errors or omissions;

- (p) criminality and security checks may be carried out systematically on applicants, with the exclusive aim of verifying whether the restrictions set out in Article 20 of this Agreement may be applicable. For that purpose, applicants may be required to declare past criminal convictions which appear in their criminal record in accordance with the law of the State of conviction at the time of the application. The host State may, if it considers this essential, apply the procedure set out in Article 27(3) of Directive 2004/38/EC with respect to enquiries to other States regarding previous criminal records;
- (q) the new residence document shall include a statement that it has been issued in accordance with this Agreement;
- (r) the applicant shall have access to judicial and, where appropriate, administrative redress procedures in the host State against any decision refusing to grant the residence status. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed decision is based. Such redress procedures shall ensure that the decision is not disproportionate.

2. During the period referred to in point (b) of paragraph 1 of this Article and its possible one-year extension under point (c) of that paragraph, all rights provided for in this Part shall be deemed to apply to Union citizens or United Kingdom nationals, their respective family members, and other persons residing in the host State, in accordance with the conditions and subject to the restrictions set out in Article 20.

3. Pending a final decision by the competent authorities on any application referred to in paragraph 1, and pending a final judgment handed down in case of judicial redress sought against any rejection of such application by the competent administrative authorities, all rights provided for in this Part shall be deemed to apply to the applicant, including Article 21 on safeguards and right of appeal, subject to the conditions set out in Article 20(4).

4. Where a host State has chosen not to require Union citizens or United Kingdom nationals, their family members, and other persons, residing in its territory in accordance with the conditions set out in this Title, to apply for the new residence status referred to in paragraph 1 as a condition for legal residence, those eligible for residence rights under this Title shall have the right to receive, in accordance with the conditions set out in Directive 2004/38/EC, a residence document, which may be in a digital form, that includes a statement that it has been issued in accordance with this Agreement.

#### Article 19

##### **Issuance of residence documents during the transition period**

1. During the transition period, a host State may allow applications for a residence status or residence document as referred to in Article 18(1) and (4) to be made voluntarily from the date of entry into force of this Agreement.
2. Decisions to accept or refuse such applications shall be taken in accordance with Article 18(1) and (4). Decisions under Article 18(1) shall have no effect until after the end of the transition period.
3. If an application under Article 18(1) is accepted before the end of the transition period, the host State may not withdraw the decision granting the residence status before the end of the transition period on any grounds other than those set out in Chapter VI and Article 35 of Directive 2004/38/EC.
4. If an application is refused before the end of the transition period, the applicant may apply again at any time before the expiry of the period set out in point (b) of Article 18(1).
5. Without prejudice to paragraph 4, the redress procedures under point (r) of Article 18(1) shall be available from the date of any decision to refuse an application referred to in paragraph 2 of this Article.

#### Article 20

##### **Restrictions of the rights of residence and entry**

1. The conduct of Union citizens or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred before the end of the transition period, shall be considered in accordance with Chapter VI of Directive 2004/38/EC.

2. The conduct of Union citizens or United Kingdom nationals, their family members, and other persons, who exercise rights under this Title, where that conduct occurred after the end of the transition period, may constitute grounds for restricting the right of residence by the host State or the right of entry in the State of work in accordance with national legislation.

3. The host State or the State of work may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Title in the case of the abuse of those rights or fraud, as set out in Article 35 of Directive 2004/38/EC. Such measures shall be subject to the procedural safeguards provided for in Article 21 of this Agreement.

4. The host State or the State of work may remove applicants who submitted fraudulent or abusive applications from its territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35 thereof, even before a final judgment has been handed down in the case of judicial redress sought against any rejection of such an application.

#### Article 21

### Safeguards and right of appeal

The safeguards set out in Article 15 and Chapter VI of Directive 2004/38/EC shall apply in respect of any decision by the host State that restricts residence rights of the persons referred to in Article 10 of this Agreement.

#### Article 22

### Related rights

In accordance with Article 23 of Directive 2004/38/EC, irrespective of nationality, the family members of a Union citizen or United Kingdom national who have the right of residence or the right of permanent residence in the host State or the State of work shall be entitled to take up employment or self-employment there.

#### Article 23

### Equal treatment

1. In accordance with Article 24 of Directive 2004/38/EC, subject to the specific provisions provided for in this Title and Titles I and IV of this Part, all Union citizens or United Kingdom nationals residing on the basis of this Agreement in the territory of the host State shall enjoy equal treatment with the nationals of that State within the scope of this Part. The benefit of this right shall be extended to those family members of Union citizens or United Kingdom nationals who have the right of residence or permanent residence.

2. By way of derogation from paragraph 1, the host State shall not be obliged to confer entitlement to social assistance during periods of residence on the basis of Article 6 or point (b) of Article 14(4) of Directive 2004/38/EC, nor shall it be obliged, prior to a person's acquisition of the right of permanent residence in accordance with Article 15 of this Agreement, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status or to members of their families.

## Chapter 2

### Rights of workers and self-employed persons

#### Article 24

### Rights of workers

1. Subject to the limitations set out in Article 45(3) and (4) TFEU, workers in the host State and frontier workers in the State or States of work shall enjoy the rights guaranteed by Article 45 TFEU and the rights granted by Regulation (EU) No 492/2011 of the European Parliament and of the Council<sup>(8)</sup>. These rights include:

- (a) the right not to be discriminated against on grounds of nationality as regards employment, remuneration and other conditions of work and employment;
- (b) the right to take up and pursue an activity in accordance with the rules applicable to the nationals of the host State or the State of work;

<sup>(8)</sup> Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ L 141, 27.5.2011, p. 1).

- (c) the right to assistance afforded by the employment offices of the host State or the State of work as offered to own nationals;
- (d) the right to equal treatment in respect of conditions of employment and work, in particular as regards remuneration, dismissal and in case of unemployment, reinstatement or re-employment;
- (e) the right to social and tax advantages;
- (f) collective rights;
- (g) the rights and benefits accorded to national workers in matters of housing;
- (h) the right for their children to be admitted to the general educational, apprenticeship and vocational training courses under the same conditions as the nationals of the host State or the State of work, if such children are residing in the territory where the worker works.

2. Where a direct descendant of a worker who has ceased to reside in the host State is in education in that State, the primary carer for that descendant shall have the right to reside in that State until the descendant reaches the age of majority, and after the age of majority if that descendant continues to need the presence and care of the primary carer in order to pursue and complete his or her education.

3. Employed frontier workers shall enjoy the right to enter and exit the State of work in accordance with Article 14 of this Agreement and shall retain the rights they enjoyed as workers there, provided they are in one of the circumstances set out in points (a), (b), (c) and (d) of Article 7(3) of Directive 2004/38/EC, even where they do not move their residence to the State of work.

#### Article 25

### **Rights of self-employed persons**

1. Subject to the limitations set out in Articles 51 and 52 TFEU, self-employed persons in the host State and self-employed frontier workers in the State or States of work shall enjoy the rights guaranteed by Articles 49 and 55 TFEU. These rights include:

- (a) the right to take up and pursue activities as self-employed persons and to set up and manage undertakings under the conditions laid down by the host State for its own nationals, as set out in Article 49 TFEU;
- (b) the rights as set out in points (c) to (h) of Article 24(1) of this Agreement.

2. Article 24(2) shall apply to direct descendants of self-employed workers.

3. Article 24(3) shall apply to self-employed frontier workers.

#### Article 26

### **Issuance of a document identifying frontier workers' rights**

The State of work may require Union citizens and United Kingdom nationals who have rights as frontier workers under this Title to apply for a document certifying that they have such rights under this Title. Such Union citizens and United Kingdom nationals shall have the right to be issued with such a document.

#### Chapter 3

### **Professional qualifications**

#### Article 27

### **Recognised professional qualifications**

1. The recognition, before the end of the transition period, of professional qualifications, as defined in point (b) of Article 3(1) of Directive 2005/36/EC of the European Parliament and of the Council<sup>(9)</sup>, of Union citizens or United

<sup>(9)</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

Kingdom nationals, and their family members, by their host State or their State of work shall maintain its effects in the respective State, including the right to pursue their profession under the same conditions as its nationals, where such recognition was made in accordance with any of the following provisions:

- (a) Title III of Directive 2005/36/EC in respect of the recognition of professional qualifications in the context of the exercise of the freedom of establishment, whether such recognition fell under the general system for the recognition of evidence of training, the system for the recognition of professional experience or the system for the recognition on the basis of coordination of minimum training conditions;
- (b) Article 10(1) and (3) of Directive 98/5/EC of the European Parliament and of the Council <sup>(10)</sup> in respect of gaining admission to the profession of lawyer in the host State or State of work;
- (c) Article 14 of Directive 2006/43/EC of the European Parliament and of the Council <sup>(11)</sup> in respect of the approval of statutory auditors from another Member State;
- (d) Council Directive 74/556/EEC <sup>(12)</sup> in respect of the acceptance of evidence of the knowledge and ability necessary to take up or pursue the activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products or activities involving the professional use of toxic products.

2. Recognitions of professional qualifications for the purposes of point (a) of paragraph 1 of this Article shall include:

- (a) recognitions of professional qualifications which have benefited from Article 3(3) of Directive 2005/36/EC;
- (b) decisions granting partial access to a professional activity in accordance with Article 4f of Directive 2005/36/EC;
- (c) recognitions of professional qualifications for establishment purposes made under Article 4d of Directive 2005/36/EC.

#### Article 28

##### **Ongoing procedures on the recognition of professional qualifications**

Article 4, Article 4d in respect of recognitions of professional qualifications for establishment purposes, Article 4f and Title III of Directive 2005/36/EC, Article 10(1), (3) and (4) of Directive 98/5/EC, Article 14 of Directive 2006/43/EC and Directive 74/556/EEC shall apply in respect of the examination by a competent authority of the host State or State of work of any application for the recognition of professional qualifications introduced before the end of the transition period by Union citizens or United Kingdom nationals and in respect of the decision on any such application.

Articles 4a, 4b and 4e of Directive 2005/36/EC shall also apply to the extent relevant for the completion of the procedures for the recognitions of professional qualifications for establishment purposes under Article 4d of that Directive.

#### Article 29

##### **Administrative cooperation on recognition of professional qualifications**

1. With regard to the pending applications referred to in Article 28, the United Kingdom and the Member States shall cooperate in order to facilitate the application of Article 28. Cooperation may include the exchange of information, including information on disciplinary action or criminal sanctions taken or any other serious and specific circumstances which are likely to have consequences for the pursuit of the activities falling under the Directives referred to in Article 28.

<sup>(10)</sup> Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77, 14.3.1998, p. 36).

<sup>(11)</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

<sup>(12)</sup> Council Directive 74/556/EEC of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries (OJ L 307, 18.11.1974, p. 1).

2. By way of derogation from Article 8, for a period not exceeding 9 months from the end of the transition period, the United Kingdom shall be entitled to use the internal market information system in respect of applications referred to in Article 28 insofar as they concern procedures for the recognition of professional qualifications for establishment purposes under Article 4d of Directive 2005/36/EC.

### TITLE III

#### **Coordination of social security systems**

##### Article 30

#### **Persons covered**

1. This Title shall apply to the following persons:

- (a) Union citizens who are subject to the legislation of the United Kingdom at the end of the transition period, as well as their family members and survivors;
- (b) United Kingdom nationals who are subject to the legislation of a Member State at the end of the transition period, as well as their family members and survivors;
- (c) Union citizens who reside in the United Kingdom and are subject to the legislation of a Member State at the end of the transition period, as well as their family members and survivors;
- (d) United Kingdom nationals who reside in a Member State, and are subject to the legislation of the United Kingdom at the end of the transition period, as well as their family members and survivors;
- (e) persons who do not fall within points (a) to (d) but are:
  - (i) Union citizens who pursue an activity as an employed or self-employed person in the United Kingdom at the end of the transition period, and who, based on Title II of Regulation (EC) No 883/2004 of the European Parliament and of the Council <sup>(13)</sup>, are subject to the legislation of a Member State, as well as their family members and survivors; or
  - (ii) United Kingdom nationals who pursue an activity as an employed or self-employed person in one or more Member States at the end of the transition period, and who, based on Title II of Regulation (EC) No 883/2004, are subject to the legislation of the United Kingdom, as well as their family members and survivors;
- (f) stateless persons and refugees, residing in a Member State or in the United Kingdom, who are in one of the situations described in points (a) to (e), as well as their family members and survivors;
- (g) nationals of third countries, as well as members of their families and survivors, who are in one of the situations described in points (a) to (e), provided that they fulfil the conditions of Council Regulation (EC) No 859/2003 <sup>(14)</sup>.

2. The persons referred to in paragraph 1 shall be covered for as long as they continue without interruption to be in one of the situations set out in that paragraph involving both a Member State and the United Kingdom at the same time.

3. This Title shall also apply to persons who do not, or who no longer, fall within points (a) to (e) of paragraph 1 of this Article but who fall within Article 10 of this Agreement, as well as their family members and survivors.

4. The persons referred to in paragraph 3 shall be covered for as long as they continue to have a right to reside in the host State under Article 13 of this Agreement, or a right to work in their State of work under Article 24 or 25 of this Agreement.

5. Where this Article refers to family members and survivors, those persons shall be covered by this Title only to the extent that they derive rights and obligations in that capacity under Regulation (EC) No 883/2004.

<sup>(13)</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).

<sup>(14)</sup> Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality (OJ L 124, 20.5.2003, p. 1).

## Article 31

**Social security coordination rules**

1. The rules and objectives set out in Article 48 TFEU, Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(15)</sup> shall apply to the persons covered by this Title.

The Union and the United Kingdom shall take due account of the Decisions and Recommendations of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission, set up under Regulation (EC) No 883/2004 ('Administrative Commission') listed in Part I of Annex I to this Agreement.

2. By way of derogation from Article 9 of this Agreement, for the purposes of this Title, the definitions in Article 1 of Regulation (EC) No 883/2004 shall apply.

3. With regard to nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, as well as their family members or survivors within the scope of this Title, the references to Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 in this Title shall be understood as references to Council Regulation (EEC) No 1408/71 <sup>(16)</sup> and Council Regulation (EEC) No 574/72 <sup>(17)</sup> respectively. References to specific provisions of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 shall be understood as references to the corresponding provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72.

## Article 32

**Special situations covered**

1. The following rules shall apply in the following situations to the extent set out in this Article, insofar as they relate to persons not or no longer covered by Article 30:

(a) the following persons shall be covered by this Title for the purposes of reliance on and aggregation of periods of insurance, employment, self-employment or residence, including rights and obligations deriving from such periods in accordance with Regulation (EC) No 883/2004:

- (i) Union citizens, as well as stateless persons and refugees residing in a Member State and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, who have been subject to the legislation of the United Kingdom before the end of the transition period, as well as their family members and survivors;
- (ii) United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, who have been subject to the legislation of a Member State before the end of the transition period, as well as their family members and survivors;

for the purposes of the aggregation of periods, periods completed both before and after the end of the transition period shall be taken into account in accordance with Regulation (EC) No 883/2004;

(b) the rules set out in Articles 20 and 27 of Regulation (EC) No 883/2004 shall continue to apply to persons who, before the end of the transition period, had requested authorisation to receive a course of planned health care treatment pursuant to Regulation (EC) No 883/2004, until the end of the treatment. The corresponding reimbursement procedures shall also apply even after the treatment ends. Such persons and the accompanying persons shall enjoy the right to enter and exit the State of treatment in accordance with Article 14, *mutatis mutandis*;

<sup>(15)</sup> Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

<sup>(16)</sup> Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 149, 5.7.1971, p. 2).

<sup>(17)</sup> Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ L 74, 27.3.1972, p. 1).



- (c) the rules set out in Articles 19 and 27 of Regulation (EC) No 883/2004 shall continue to apply to persons who are covered by Regulation (EC) No 883/2004 and who are on a stay at the end of the transition period in a Member State or the United Kingdom, until the end of their stay. The corresponding reimbursement procedures shall also apply even after the stay or treatment ends;
- (d) the rules set out in Articles 67, 68 and 69 of Regulation (EC) No 883/2004 shall continue to apply, for as long as the conditions are fulfilled, to awards of family benefits to which there is entitlement at the end of the transition period for the following persons:
- (i) Union citizens, stateless persons and refugees residing in a Member State as well as nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003 and reside in a Member State, who are subject to the legislation of a Member State and have family members residing in the United Kingdom at the end of the transition period;
- (ii) United Kingdom nationals, as well as stateless persons and refugees residing in the United Kingdom and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003 and reside in the United Kingdom, who are subject to the legislation of the United Kingdom and have family members residing in a Member State at the end of the transition period;
- (e) in the situations set out in point (d)(i) and (ii) of this paragraph, for any persons who have rights as family members at the end of the transition period under Regulation (EC) No 883/2004, such as derived rights for sickness benefits in kind, that Regulation and the corresponding provisions of Regulation (EC) No 987/2009 shall continue to apply for as long as the conditions provided therein are fulfilled.
2. The provisions of Chapter 1 of Title III of Regulation (EC) No 883/2004 as regards sickness benefits shall apply to persons receiving benefits under point (a) of paragraph 1 of this Article.

This paragraph shall apply *mutatis mutandis* as regards family benefits based on Articles 67, 68 and 69 of Regulation (EC) No 883/2004.

#### Article 33

##### **Nationals of Iceland, Liechtenstein, Norway and Switzerland**

1. The provisions of this Title applicable to Union citizens shall apply to nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation provided that:
- (a) Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable, have concluded and apply corresponding agreements with the United Kingdom which apply to Union citizens; and
- (b) Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable, have concluded and apply corresponding agreements with the Union which apply to United Kingdom nationals.
2. Upon notification from the United Kingdom and from the Union of the date of entry into force of the agreements referred to in paragraph 1 of this Article, the Joint Committee established by Article 164 ('Joint Committee') shall set the date from which the provisions of this Title shall apply to the nationals of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, and the Swiss Confederation, as applicable.

#### Article 34

##### **Administrative cooperation**

1. By way of derogation from Articles 7 and 128(1), as of the date of entry into force of this Agreement, the United Kingdom shall have the status of observer in the Administrative Commission. It may, where the items on the agenda relating to this Title concern the United Kingdom, send a representative, to be present in an advisory capacity, to the meetings of the Administrative Commission and to the meetings of the bodies referred to in Articles 73 and 74 of Regulation (EC) No 883/2004 where such items are discussed.
2. By way of derogation from Article 8, the United Kingdom shall take part in the Electronic Exchange of Social Security Information (EESSI) and bear the related costs.

*Article 35***Reimbursement, recovery and offsetting**

The provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009 on reimbursement, recovery and offsetting shall continue to apply in relation to events, insofar as they relate to persons not covered by Article 30, that:

- (a) occurred before the end of the transition period; or
- (b) occur after the end of the transition period and relate to persons who were covered by Articles 30 or 32 when the event occurred.

*Article 36***Development of law and adaptations of Union acts**

1. Where Regulations (EC) No 883/2004 and (EC) No 987/2009 are amended or replaced after the end of the transition period, references to those Regulations in this Agreement shall be understood as referring to those Regulations as amended or replaced, in accordance with the acts listed in Part II of Annex I to this Agreement.

The Joint Committee shall revise Part II of Annex I to this Agreement and align it to any act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009 as soon as such act is adopted by the Union. To that end, the Union shall, as soon as possible after adoption, inform the United Kingdom within the Joint Committee of any act amending or replacing those Regulations.

2. By way of derogation from the second subparagraph of paragraph 1, the Joint Committee shall assess the effects of an act amending or replacing Regulations (EC) No 883/2004 and (EC) No 987/2009 where that act:

- (a) amends or replaces the matters covered by Article 3 of Regulation (EC) No 883/2004; or
- (b) makes a cash benefit exportable where that cash benefit was non-exportable under Regulation (EC) No 883/2004 at the end of the transition period, or makes a cash benefit non-exportable, where that cash benefit was exportable at the end of the transition period; or
- (c) makes a cash benefit exportable for an unlimited period of time, where that cash benefit was exportable only for a limited period of time under Regulation (EC) No 883/2004 at the end of the transition period, or makes a cash benefit exportable only for a limited period of time, where that cash benefit was exportable for an unlimited period of time under that Regulation at the end of the transition period.

In making its assessment, the Joint Committee shall consider in good faith the scale of the changes referred to in the first subparagraph of this paragraph, as well as the importance of the continued good functioning of Regulations (EC) No 883/2004 and (EC) No 987/2009 between the Union and the United Kingdom and the importance of there being a competent State in relation to individuals within the scope of Regulation (EC) No 883/2004.

If the Joint Committee so decides within 6 months from receiving the information given by the Union pursuant to paragraph 1, Part II of Annex I to this Agreement shall not be aligned to the act referred to in the first subparagraph of this paragraph.

For the purposes of this paragraph:

- (a) 'exportable' means payable under Regulation (EC) No 883/2004 to or in relation to a person residing in a Member State or in the United Kingdom if the institution responsible for providing the benefit is not situated there; 'non-exportable' shall be interpreted accordingly; and
- (b) 'exportable for an unlimited period of time' means exportable for as long as the conditions giving rise to the entitlements are met.

3. Regulations (EC) No 883/2004 and (EC) No 987/2009 shall, for the purposes of this Agreement, be understood as comprising the adaptations listed in Part III of Annex I to this Agreement. As soon as possible after the adoption of any changes in domestic provisions of relevance to Part III of Annex I to this Agreement, the United Kingdom shall inform the Union thereof within the Joint Committee.

4. The Decisions and Recommendations of the Administrative Commission shall, for the purposes of this Agreement, be understood as comprising the decisions and recommendations listed in Part I of Annex I. The Joint Committee shall amend Part I of Annex I to reflect any new Decision or Recommendation adopted by the Administrative Commission. To that end, as soon as possible after adoption of decisions and recommendations of the Administrative Commission, the Union shall inform the United Kingdom thereof within the Joint Committee. Such amendments shall be made by the Joint Committee on a proposal of the Union or the United Kingdom.

#### TITLE IV

### **Other provisions**

#### Article 37

### **Publicity**

The Member States and the United Kingdom shall disseminate information concerning the rights and obligations of persons covered by this Part, in particular by means of awareness-raising campaigns conducted, as appropriate, through national and local media and other means of communication.

#### Article 38

### **More favourable provisions**

1. This Part shall not affect any laws, regulations or administrative provisions applicable in a host State or a State of work which would be more favourable to the persons concerned. This paragraph shall not apply to Title III.
2. Article 12 and Article 23(1) shall be without prejudice to the Common Travel Area arrangements between the United Kingdom and Ireland as regards more favourable treatment which may result from these arrangements for the persons concerned.

#### Article 39

### **Life-long protection**

The persons covered by this Part shall enjoy the rights provided for in the relevant Titles of this Part for their lifetime, unless they cease to meet the conditions set out in those Titles.

## PART THREE

### SEPARATION PROVISIONS

#### TITLE I

### **Goods placed on the market**

#### Article 40

### **Definitions**

For the purposes of this Title, the following definitions shall apply:

- (a) 'making available on the market' means any supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge;
- (b) 'placing on the market' means the first making available of a good on the market in the Union or the United Kingdom;
- (c) 'supply of a good for distribution, consumption or use' means that an existing and individually identifiable good, after the stage of manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an agreement;
- (d) 'putting into service' means the first use of a good within the Union or the United Kingdom by the end user for the purposes for which it was intended or, in the case of marine equipment, placing on board;
- (e) 'market surveillance' means the activities carried out and measures taken by market surveillance authorities to ensure that goods comply with the applicable requirements and do not endanger health, safety or any other aspect of public interest protection;

- (f) 'market surveillance authority' means an authority of a Member State or of the United Kingdom responsible for carrying out market surveillance on its territory;
- (g) 'conditions for the marketing of goods' means requirements concerning the characteristics of goods such as levels of quality, performance, safety or dimensions, including on the composition of such goods or on the terminology, symbols, testing and testing methods, packaging, marking, labelling, and conformity assessment procedures used in relation to such goods; the term also covers requirements concerning production methods and processes, where these have an effect on product characteristics;
- (h) 'conformity assessment body' means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (i) 'notified body' means a conformity assessment body authorised to carry out third-party conformity assessment tasks under Union law harmonising the conditions for the marketing of goods;
- (j) 'animal products' means products of animal origin, animal by-products and derived products, as referred to in points (29), (30) and (31) of Article 4 of Regulation (EU) 2016/429 of the European Parliament and of the Council<sup>(18)</sup>, respectively, feed of animal origin, and food and feed containing products of animal origin.

#### Article 41

##### **Continued circulation of goods placed on the market**

1. Any good that was lawfully placed on the market in the Union or the United Kingdom before the end of the transition period may:
  - (a) be further made available on the market of the Union or of the United Kingdom and circulate between these two markets until it reaches its end-user;
  - (b) where provided in the applicable provisions of Union law, be put into service in the Union or in the United Kingdom.
2. The requirements set out in Articles 34 and 35 TFEU and the relevant Union law governing the marketing of goods, including the conditions for the marketing of goods, applicable to the goods concerned shall apply in respect of the goods referred to in paragraph 1.
3. Paragraph 1 shall apply to all existing and individually identifiable goods within the meaning of Title II of Part Three of the TFEU, with the exception of the circulation between the Union market and the United Kingdom's market or vice-versa of:
  - (a) live animals and germinal products;
  - (b) animal products.
4. In respect of a movement of live animals or of germinal products between a Member State and the United Kingdom, or vice-versa, the provisions of Union law listed in Annex II shall apply, provided that the date of departure was before the end of the transition period.
5. This Article shall be without prejudice to the possibility for the United Kingdom, a Member State or the Union to take measures to prohibit or restrict the making available on its market of a good referred to in paragraph 1, or a category of such goods, where and to the extent permitted by Union law.
6. The provisions of this Title shall be without prejudice to any applicable rules on modalities of sale, intellectual property, customs procedures, tariffs and taxes.

#### Article 42

##### **Proof of placing on the market**

Where an economic operator relies on Article 41(1) with respect to a specific good, that operator shall bear the burden of proof of demonstrating, on the basis of any relevant document, that the good was placed on the market in the Union or the United Kingdom before the end of the transition period.

<sup>(18)</sup> Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

*Article 43***Market surveillance**

1. The market surveillance authorities of the Member States and the market surveillance authorities of the United Kingdom shall exchange without delay any relevant information collected with regard to the goods referred to in Article 41(1) in the context of their respective market surveillance activities. They shall, in particular, communicate to each other and to the European Commission any information relating to those goods presenting a serious risk, as well as any measures taken in relation to non-compliant goods, including relevant information drawn from networks, information systems and databases established under Union or United Kingdom law in relation to those goods.

2. The Member States and the United Kingdom shall transmit without delay any request from the market surveillance authorities of the United Kingdom or of a Member State, respectively, to a conformity assessment body established in their territory, where that request concerns a conformity assessment carried out by that body in its capacity as notified body before the end of the transition period. Member States and the United Kingdom shall ensure that any such request is promptly addressed by the conformity assessment body.

*Article 44***Transfer of files and documents relating to ongoing procedures**

The United Kingdom shall transfer without delay to the competent authority of a Member State designated in accordance with the procedures provided for in the applicable Union law all relevant files or documents in relation to assessments, approvals and authorisations ongoing on the day before the date of entry into force of this Agreement and led by a United Kingdom competent authority in accordance with Regulation (EU) No 528/2012<sup>(19)</sup>, Regulation (EC) No 1107/2009<sup>(20)</sup>, Directive 2001/83/EC<sup>(21)</sup> and Directive 2001/82/EC<sup>(22)</sup> of the European Parliament and of the Council.

*Article 45***Making available of information in relation to past authorisation procedures for medicinal products**

1. The United Kingdom shall, upon a reasoned request from a Member State or the European Medicines Agency, make available without delay the marketing authorisation dossier of a medicinal product authorised by a competent authority of the United Kingdom before the end of the transition period, where that dossier is necessary for the assessment of a marketing authorisation application in accordance with Articles 10 and 10a of Directive 2001/83/EC or Articles 13 and 13a of Directive 2001/82/EC.

2. A Member State shall, upon a reasoned request from the United Kingdom, make available without delay the marketing authorisation dossier of a medicinal product authorised by a competent authority of that Member State before the end of the transition period, where that dossier is necessary for the assessment of a marketing authorisation application in the United Kingdom in accordance with the United Kingdom's legislative requirements, to the extent that those legislative requirements replicate the circumstances of Articles 10 and 10a of Directive 2001/83/EC or Articles 13 and 13a of Directive 2001/82/EC.

*Article 46***Making available of information held by notified bodies established in the United Kingdom or in a Member State**

1. The United Kingdom shall ensure that information held by a conformity assessment body established in the United Kingdom in relation to its activities as a notified body under Union law before the end of the transition period is made available at the request of the certificate holder, without delay, to a notified body established in a Member State as indicated by the certificate holder.

<sup>(19)</sup> Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

<sup>(20)</sup> Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market (OJ L 309, 24.11.2009, p. 1).

<sup>(21)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

<sup>(22)</sup> Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products (OJ L 311, 28.11.2001, p. 1).

2. Member States shall ensure that information held by a notified body established in the Member State concerned in relation to its activities before the end of the transition period is made available at the request of the certificate holder, without delay, to a conformity assessment body established in the United Kingdom as indicated by the certificate holder.

## TITLE II

### **Ongoing customs procedures**

#### Article 47

### **Union status of goods**

1. Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(23)</sup> shall apply in respect of Union goods referred to in point (23) of Article 5 of that Regulation, where such goods move from the customs territory of the United Kingdom to the customs territory of the Union, or vice versa, provided that the movement started before the end of the transition period and ended thereafter. A movement of goods which has started before the end of the transition period and ends thereafter shall be treated as an intra-Union movement regarding importation and exportation licencing requirements in Union law.

2. For the purposes of paragraph 1, the presumption of the customs status of Union goods as referred to in Article 153(1) of Regulation (EU) No 952/2013 shall not apply. The customs status of those goods as Union goods, as well as the fact that the movement referred to in paragraph 1 started before the end of the transition period, shall need to be proven for every movement by the person concerned by any of the means referred to in Article 199 of Commission Implementing Regulation (EU) 2015/2447 <sup>(24)</sup>. The proof of the start of the movement shall be provided by means of a transport document relating to the goods.

3. Paragraph 2 shall not apply in respect of Union goods that are carried by air and have been loaded or transhipped at an airport in the customs territory of the United Kingdom for consignment to the customs territory of the Union or have been loaded or transhipped at an airport in the customs territory of the Union for consignment to the customs territory of the United Kingdom, where such goods are carried under cover of a single transport document issued in either of the customs territories concerned, provided that the movement by air started before the end of the transition period and the movement ended thereafter.

4. Paragraph 2 shall not apply in respect of Union goods that are carried by sea and have been shipped between ports in the customs territory of the United Kingdom and ports in the customs territory of the Union by a regular shipping service, as referred to in Article 120 of Commission Delegated Regulation (EU) 2015/2446 <sup>(25)</sup>, provided that:

- (a) the voyage comprising the ports in the customs territory of the United Kingdom and ports in the customs territory of the Union started before the end of the transition period and ended thereafter; and
- (b) the regular shipping service vessel called at one or several ports in the customs territory of the United Kingdom or in the customs territory of the Union before the end of the transition period.

5. When during the voyage referred to in point (a) of paragraph 4 the regular shipping service vessel calls at one or several ports in the customs territory of the United Kingdom after the end of the transition period:

- (a) for goods loaded before the end of the transition period and unloaded in those ports, the customs status of Union goods shall not be altered;
- (b) for goods loaded in ports called after the end of the transition period, the customs status of Union goods shall not be altered provided that it is proven in accordance with paragraph 2.

<sup>(23)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>(24)</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

<sup>(25)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

*Article 48***Entry summary declaration and pre-departure declaration**

1. Regulation (EU) No 952/2013 shall apply in respect of entry summary declarations that were lodged at a customs office of first entry in accordance with Chapter I of Title IV of that Regulation before the end of the transition period, and those declarations shall produce the same legal effects in the customs territory of the Union and the customs territory of the United Kingdom after the end of the transition period.
2. Regulation (EU) No 952/2013 shall apply in respect of pre-departure declarations that were lodged in accordance with Chapter I of Title VIII of that Regulation before the end of the transition period and, where applicable, where the goods were released in accordance with Article 194 of that Regulation before the end of the transition period. Those declarations shall produce the same legal effects in the customs territory of the Union and the customs territory of the United Kingdom after the end of the transition period.

*Article 49***Ending of temporary storage or customs procedures**

1. Regulation (EU) No 952/2013 shall apply in respect of non-Union goods that were in temporary storage referred to in point (17) of Article 5 of that Regulation at the end of the transition period and in respect of goods that were under any of the customs procedures referred to in point (16) of Article 5 of that Regulation in the customs territory of the United Kingdom at the end of the transition period, until such temporary storage is ended, until one of the special customs procedures is discharged, until the goods are released for free circulation, or until the goods are taken out of the territory, provided that such event occurs after the end of the transition period but not later than within the corresponding time limit referred to in Annex III.

However, points (b) and (c) of Article 148(5) and Article 219 of Regulation (EU) No 952/2013 shall not apply in respect of movements of goods between the customs territory of the United Kingdom and the customs territory of the Union which end after the end of the transition period.

2. Regulation (EU) No 952/2013, Council Decision 2014/335/EU, Euratom <sup>(26)</sup>, Council Regulation (EU, Euratom) No 608/2014 <sup>(27)</sup> and Council Regulation (EU, Euratom) No 609/2014 <sup>(28)</sup> shall apply in respect of any customs debt arising after the end of the transition period from the end of temporary storage or discharge referred to in paragraph 1.
3. Section 1 of Chapter 1 of Title II of Implementing Regulation (EU) 2015/2447 shall apply in respect of requests to benefit from tariff quotas which have been accepted by the customs authorities in the customs territory of the United Kingdom and where the required supporting documents have been provided in accordance with Article 50 of that Regulation by the customs authorities in the customs territory of the United Kingdom before the end of the transition period, and shall apply in respect of the cancellation of requests and returns of unused allocated quantities of such requests.

*Article 50***Access to relevant networks, information systems and databases**

By way of derogation from Article 8, the United Kingdom shall have access, to the extent strictly necessary to comply with its obligations under this Title, to the networks, information systems and databases listed in Annex IV. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating that access. The Union shall communicate to the United Kingdom the amount of those costs by 31 March of each year until the end of the period referred to in Annex IV. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

<sup>(26)</sup> Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

<sup>(27)</sup> Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 29).

<sup>(28)</sup> Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

## TITLE III

**Ongoing value added tax and excise duty matters**

## Article 51

**Value added tax (VAT)**

1. Council Directive 2006/112/EC <sup>(29)</sup> shall apply in respect of goods dispatched or transported from the territory of the United Kingdom to the territory of a Member State, and vice versa, provided that the dispatch or transport started before the end of the transition period and ended thereafter.
2. Directive 2006/112/EC shall continue to apply until 5 years after the end of the transition period with regard to the taxable person's rights and obligations in relation to transactions with a cross-border element between the United Kingdom and a Member State that took place before the end of the transition period and with regard to transactions covered by paragraph 1.
3. By way of derogation from paragraph 2 and from Article 15 of Council Directive 2008/9/EC <sup>(30)</sup>, refund applications that relate to VAT which was paid in a Member State by a taxable person established in the United Kingdom, or which was paid in the United Kingdom by a taxable person established in a Member State, shall be submitted under the conditions of that Directive at the latest on 31 March 2021.
4. By way of derogation from paragraph 2 and from Article 61(2) of Council Implementing Regulation (EU) No 282/2011 <sup>(31)</sup>, amendments to VAT returns that were submitted in accordance with Article 364 or Article 369f of Directive 2006/112/EC either in the United Kingdom with regard to services supplied in Member States of consumption before the end of the transition period, or in a Member State with regard to services supplied in the United Kingdom before the end of the transition period, shall be submitted at the latest on 31 December 2021.

## Article 52

**Excise goods**

Council Directive 2008/118/EC <sup>(32)</sup> shall apply in respect of movements of excise goods under a duty suspension arrangement and in respect of movements of excise goods after release for consumption from the territory of the United Kingdom to the territory of a Member State, or vice versa, provided that the movement started before the end of the transition period and ended thereafter.

## Article 53

**Access to relevant networks, information systems and databases**

By way of derogation from Article 8, the United Kingdom shall have access, to the extent strictly necessary to comply with its obligations under this Title, to the networks, information systems and databases listed in Annex IV. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating that access. The Union shall communicate to the United Kingdom the amount of those costs by 31 March of each year until the end of the period referred to in Annex IV. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

<sup>(29)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

<sup>(30)</sup> Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

<sup>(31)</sup> Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

<sup>(32)</sup> Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).



## TITLE IV

**Intellectual property**

## Article 54

**Continued protection in the United Kingdom of registered or granted rights**

1. The holder of any of the following intellectual property rights which have been registered or granted before the end of the transition period shall, without any re-examination, become the holder of a comparable registered and enforceable intellectual property right in the United Kingdom under the law of the United Kingdom:

- (a) the holder of a European Union trade mark registered in accordance with Regulation (EU) 2017/1001 of the European Parliament and of the Council <sup>(33)</sup> shall become the holder of a trade mark in the United Kingdom, consisting of the same sign, for the same goods or services;
- (b) the holder of a Community design registered and, where applicable, published following a deferral of publication in accordance with Council Regulation (EC) No 6/2002 <sup>(34)</sup> shall become the holder of a registered design right in the United Kingdom for the same design;
- (c) the holder of a Community plant variety right granted pursuant to Council Regulation (EC) No 2100/94 <sup>(35)</sup> shall become the holder of a plant variety right in the United Kingdom for the same plant variety.

2. Where a geographical indication, designation of origin or traditional speciality guaranteed within the meaning of Regulation (EU) No 1151/2012 of the European Parliament and of the Council <sup>(36)</sup>, a geographical indication, designation of origin or traditional term for wine within the meaning of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>(37)</sup>, a geographical indication within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council <sup>(38)</sup> or a geographical indication within the meaning of Regulation (EU) No 251/2014 of the European Parliament and of the Council <sup>(39)</sup>, is protected in the Union on the last day of the transition period by virtue of those Regulations, those persons who are entitled to use the geographical indication, the designation of origin, the traditional speciality guaranteed or the traditional term for wine concerned shall be entitled, as from the end of the transition period, without any re-examination, to use the geographical indication, the designation of origin, the traditional speciality guaranteed or the traditional term for wine concerned in the United Kingdom, which shall be granted at least the same level of protection under the law of the United Kingdom as under the following provisions of Union law:

- (a) points (i), (j) and (k) of Article 4(1) of Directive (EU) 2015/2436 of the European Parliament and of the Council <sup>(40)</sup>; and
- (b) in view of the geographical indication, designation of origin, traditional speciality guaranteed or traditional term for wine concerned, Article 13, Article 14(1), Article 24, Article 36(3), Articles 38 and 44 and point (b) of Article 45(1) of Regulation (EU) No 1151/2012; Article 90(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council <sup>(41)</sup>; Article 100(3), Article 102(1), Articles 103 and 113, and point (c)(x) of Article 157(1) of

<sup>(33)</sup> Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154, 16.6.2017, p. 1).

<sup>(34)</sup> Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).

<sup>(35)</sup> Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1).

<sup>(36)</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

<sup>(37)</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

<sup>(38)</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

<sup>(39)</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

<sup>(40)</sup> Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).

<sup>(41)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy (OJ L 347, 20.12.2013, p. 549).

Regulation (EU) No 1308/2013; Article 62(3) and (4) of Commission Regulation (EC) No 607/2009 <sup>(42)</sup>; the first subparagraph of Article 15(3), Article 16 and Article 23(1) of Regulation (EC) No 110/2008 and, insofar as to the extent related to compliance with those provisions of that Regulation, Article 24(1) of that Regulation; or Article 19(1) and Article 20 of Regulation (EU) No 251/2014.

Where a geographical indication, designation of origin, traditional speciality guaranteed or traditional term for wine referred to in the first subparagraph ceases to be protected in the Union after the end of the transition period, the first subparagraph shall cease to apply in respect of that geographical indication, designation of origin, traditional speciality guaranteed or traditional term for wine.

The first subparagraph shall not apply where protection in the Union is derived from international agreements to which the Union is a party.

This paragraph shall apply unless and until an agreement as referred to in Article 184 that supersedes this paragraph enters into force or becomes applicable.

3. Notwithstanding paragraph 1, if an intellectual property right referred to in that paragraph is declared invalid or revoked, or, in the case of a Community plant variety right, is declared null and void or is cancelled, in the Union as the result of an administrative or judicial procedure which was ongoing on the last day of the transition period, the corresponding right in the United Kingdom shall also be declared invalid or revoked, or declared null and void, or be cancelled. The date of effect of the declaration or revocation or cancellation in the United Kingdom shall be the same as in the Union.

By way of derogation from the first subparagraph, the United Kingdom shall not be obliged to declare invalid or to revoke the corresponding right in the United Kingdom where the grounds for the invalidity or revocation of the European Union trade mark or registered Community design do not apply in the United Kingdom.

4. A trade mark or registered design right which arises in the United Kingdom in accordance with point (a) or (b) of paragraph 1 shall have as its first renewal date the renewal date of the corresponding intellectual property right registered in accordance with Union law.

5. In respect of trade marks in the United Kingdom referred to in point (a) of paragraph 1 of this Article, the following shall apply:

- (a) the trade mark shall enjoy the date of filing or the date of priority of the European Union trade mark and, where appropriate, the seniority of a trade mark of the United Kingdom claimed under Article 39 or 40 of Regulation (EU) 2017/1001;
- (b) the trade mark shall not be liable to revocation on the ground that the corresponding European Union trade mark had not been put into genuine use in the territory of the United Kingdom before the end of the transition period;
- (c) the owner of a European Union trade mark that has acquired a reputation in the Union shall be entitled to exercise in the United Kingdom rights equivalent to those provided for in point (c) of Article 9(2) of Regulation (EU) 2017/1001 and point (a) of Article 5(3) of Directive (EU) 2015/2436 in respect of the corresponding trade mark on the basis of the reputation acquired in the Union by the end of the transition period and thereafter the continuing reputation of that trade mark shall be based on the use of the mark in the United Kingdom.

6. In respect of registered design rights and plant variety rights in the United Kingdom referred to in points (b) and (c) of paragraph 1, the following shall apply:

- (a) the term of protection under the law of the United Kingdom shall be at least equal to the remaining period of protection under Union law of the corresponding registered Community design or Community plant variety right;
- (b) the date of filing or date of priority shall be that of the corresponding registered Community design or Community plant variety right.

#### Article 55

#### Registration procedure

1. The registration, grant or protection pursuant to Article 54(1) and (2) of this Agreement shall be carried out free of charge by the relevant entities in the United Kingdom, using the data available in the registries of the European Union Intellectual Property Office, the Community Plant Variety Office and the European Commission. Annex III to Regulation (EC) No 110/2008 shall be considered a registry for the purpose of this Article.

<sup>(42)</sup> Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).

2. For the purposes of paragraph 1, holders of the intellectual property rights referred to in Article 54(1) and those persons who are entitled to use a geographical indication, designation of origin, traditional speciality guaranteed or traditional term for wine referred to in Article 54(2) shall not be required to introduce an application or to undertake any particular administrative procedure. Holders of intellectual property rights referred to in Article 54(1) shall not be required to have a correspondence address in the United Kingdom in the 3 years following the end of the transition period.

3. The European Union Intellectual Property Office, the Community Plant Variety Office and the European Commission shall provide to the relevant entities in the United Kingdom the information necessary for the registration, grant or protection in the United Kingdom pursuant to Article 54(1) or (2).

4. This Article shall be without prejudice to renewal fees that may apply at the time of renewal of the rights, or the possibility for the holders concerned to surrender their intellectual property rights in the United Kingdom in accordance with the relevant procedure under the law of the United Kingdom.

#### Article 56

### **Continued protection in the United Kingdom of international registrations designating the Union**

The United Kingdom shall take measures to ensure that natural or legal persons who have obtained protection before the end of the transition period for internationally registered trade marks or designs designating the Union pursuant to the Madrid system for the international registration of marks, or pursuant to the Hague system for the international deposit of industrial designs, enjoy protection in the United Kingdom for their trade marks or industrial designs in respect of those international registrations.

#### Article 57

### **Continued protection in the United Kingdom of unregistered Community designs**

The holder of a right in relation to an unregistered Community design which arose before the end of the transition period in accordance with Regulation (EC) No 6/2002 shall in relation to that unregistered Community design *ipso iure* become the holder of an enforceable intellectual property right in the United Kingdom, under the law of the United Kingdom, that affords the same level of protection as that provided for in Regulation (EC) No 6/2002. The term of protection of that right under the law of the United Kingdom shall be at least equal to the remaining period of protection of the corresponding unregistered Community design under Article 11(1) of that Regulation.

#### Article 58

### **Continued protection of databases**

1. The holder of a right in relation to a database in respect of the United Kingdom in accordance with Article 7 of Directive 96/9/EC of the European Parliament and of the Council <sup>(43)</sup> which arose before the end of the transition period shall, in relation to that database, maintain an enforceable intellectual property right in the United Kingdom, under the law of the United Kingdom, that affords the same level of protection as that provided for in Directive 96/9/EC, provided that the holder of that right continues to comply with the requirements of Article 11 of that Directive. The term of protection of that right under the law of the United Kingdom shall be at least equal to the remaining period of protection under Article 10 of Directive 96/9/EC.

2. The following persons and undertakings shall be deemed to comply with the requirements of Article 11 of Directive 96/9/EC:

- (a) United Kingdom nationals;
- (b) natural persons with a habitual residence in the United Kingdom;
- (c) undertakings established in the United Kingdom, provided that where such an undertaking has only its registered office in the United Kingdom, its operations are genuinely linked on an ongoing basis with the economy of the United Kingdom or of a Member State.

<sup>(43)</sup> Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).

*Article 59***Right of priority with respect to pending applications for European Union trade marks, Community designs and Community plant variety rights**

1. Where a person has filed an application for a European Union trade mark or a Community design in accordance with Union law before the end of the transition period and where that application was accorded a date of filing, that person shall have, for the same trade mark in respect of goods or services which are identical with or contained within those for which the application has been filed in the Union or for the same design, the right to file an application in the United Kingdom within 9 months from the end of the transition period. An application made pursuant to this Article shall be deemed to have the same filing date and date of priority as the corresponding application filed in the Union and, where appropriate, the seniority of a trade mark of the United Kingdom claimed under Article 39 or 40 of Regulation (EU) 2017/1001.

2. Where a person has filed an application for a Community plant variety right in accordance with Union law before the end of the transition period, that person shall have, for the purpose of filing an application for the same plant variety right in the United Kingdom, an ad hoc right of priority in the United Kingdom during a period of 6 months from the end of the transition period. The right of priority shall cause the date of priority of the application for the Community plant variety right to be deemed to be the date of application for a plant variety right in the United Kingdom for the purpose of determining distinctness, novelty and entitlement to the right.

*Article 60***Pending applications for supplementary protection certificates in the United Kingdom**

1. Regulations (EC) No 1610/96 <sup>(44)</sup> and No 469/2009 <sup>(45)</sup> of the European Parliament and of the Council, respectively, shall apply in respect of applications for supplementary protection certificates for plant protection products and for medicinal products, as well as to applications for the extension of the duration of such certificates, where such applications were submitted to an authority in the United Kingdom before the end of the transition period in cases where the administrative procedure for the grant of the certificate concerned or of the extension of its duration was ongoing at the end of the transition period.

2. Any certificate granted pursuant to paragraph 1 shall provide for the same level of protection as that provided for in Regulation (EC) No 1610/96 or Regulation (EC) No 469/2009.

*Article 61***Exhaustion of rights**

Intellectual property rights which were exhausted both in the Union and in the United Kingdom before the end of the transition period under the conditions provided for by Union law shall remain exhausted both in the Union and in the United Kingdom.

*TITLE V****Ongoing police and judicial cooperation in criminal matters****Article 62***Ongoing judicial cooperation proceedings in criminal matters**

1. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows:

- (a) the Convention, established by the Council in accordance with Article 34 of the Treaty on European Union on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(46)</sup>, and the Protocol established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(47)</sup>, shall apply in respect of mutual legal assistance requests received under the respective instrument before the end of the transition period by the central authority or judicial authority;

<sup>(44)</sup> Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ L 198, 8.8.1996, p. 30).

<sup>(45)</sup> Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ L 152, 16.6.2009, p. 1).

<sup>(46)</sup> OJ C 197, 12.7.2000, p. 3.

<sup>(47)</sup> OJ C 326, 21.11.2001, p. 2.

- (b) Council Framework Decision 2002/584/JHA <sup>(48)</sup> shall apply in respect of European arrest warrants where the requested person was arrested before the end of the transition period for the purposes of the execution of a European arrest warrant, irrespective of the decision of the executing judicial authority as to whether the requested person is to remain in detention or be provisionally released;
- (c) Council Framework Decision 2003/577/JHA <sup>(49)</sup> shall apply in respect of freezing orders received before the end of the transition period by the central authority or the competent judicial authority for execution, or by a judicial authority in the executing State with no jurisdiction to recognise or execute a freezing order, but which transmits the freezing order *ex officio* to the competent judicial authority for execution;
- (d) Council Framework Decision 2005/214/JHA <sup>(50)</sup> shall apply in respect of decisions received before the end of the transition period by the central authority or the competent authority in the executing State, or by an authority of the executing State with no jurisdiction to recognise or execute a decision, but which transmits the decision *ex officio* to the competent authority for execution;
- (e) Council Framework Decision 2006/783/JHA <sup>(51)</sup> shall apply in respect of confiscation orders received before the end of the transition period by the central authority or the competent authority of the executing State, or by an authority in the executing State with no jurisdiction to recognise or execute a confiscation order, but which transmits the confiscation order *ex officio* to the competent authority for execution;
- (f) Council Framework Decision 2008/909/JHA <sup>(52)</sup> shall apply:
- (i) in respect of judgments received before the end of the transition period by the competent authority of the executing State, or by an authority of the executing State with no competence to recognise and enforce a judgment, but which transmits the judgment *ex officio* to the competent authority for execution;
  - (ii) for the purposes of Article 4(6) or Article 5(3) of Framework Decision 2002/584/JHA, where that Framework Decision is applicable by virtue of point (b) of this paragraph;
- (g) Council Framework Decision 2008/675/JHA <sup>(53)</sup> shall apply in respect of new criminal proceedings within the meaning of Article 3 of that Framework Decision that are initiated before the end of the transition period;
- (h) Council Framework Decision 2009/315/JHA <sup>(54)</sup> shall apply in respect of requests for information on conviction received before the end of the transition period by the central authority; however, after the end of the transition period, replies to such requests shall not be transmitted through the European Criminal Records Information System established pursuant to the Council Decision 2009/316/JHA <sup>(55)</sup>;
- (i) Council Framework Decision 2009/829/JHA <sup>(56)</sup> shall apply in respect of decisions on supervision measures received before the end of the transition period by the central authority or the competent authority in the executing State, or by an authority of the executing State with no competence to recognise a decision, but which forwards it *ex officio* to the competent authority for execution;
- (j) Article 10(3) of Directive 2011/93/EU of the European Parliament and the Council <sup>(57)</sup> shall apply in respect of requests for information received before the end of the transition period by the central authority; however, after the end of the transition period, replies to such requests shall not be transmitted through the European Criminal Records Information System established pursuant to Decision 2009/316/JHA;

<sup>(48)</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

<sup>(49)</sup> Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45).

<sup>(50)</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16).

<sup>(51)</sup> Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p. 59).

<sup>(52)</sup> Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327, 5.12.2008, p. 27).

<sup>(53)</sup> Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings (OJ L 220, 15.8.2008, p. 32).

<sup>(54)</sup> Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93, 7.4.2009, p. 23).

<sup>(55)</sup> Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 93, 7.4.2009, p. 33).

<sup>(56)</sup> Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ L 294, 11.11.2009, p. 20).

<sup>(57)</sup> Directive 2011/93/EU of the European Parliament and the Council of 13 December 2011 on combatting the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

- (k) Directive 2011/99/EU of the European Parliament and of the Council <sup>(58)</sup> shall apply in respect of European protection orders received before the end of the transition period by the central authority or the competent authority of the executing State, or by an authority of the executing State with no competence to recognise a European protection order, but which forwards it *ex officio* to the competent authority for execution;
- (l) Directive 2014/41/EU of the European Parliament and of the Council <sup>(59)</sup> shall apply in respect of European Investigation Orders received before the end of the transition period by the central authority or the executing authority, or by an authority in the executing State with no competence to recognise or execute a European Investigation Order which forwards it *ex officio* to the executing authority for execution.

2. The competent authorities of the United Kingdom may continue to participate in the joint investigation teams in which they were participating before the end of the transition period, where those investigation teams were set up either in accordance with Article 13 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union or in accordance with Council Framework Decision 2002/465/JHA <sup>(60)</sup>.

By way of derogation from Article 8 of this Agreement, the United Kingdom shall be entitled to use, for no longer than one year after the end of the transition period, the Secure Information Exchange Network Application (SIENA) to the extent strictly necessary for the purpose of exchanging information within the joint investigation teams referred to in the first subparagraph of this paragraph. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating the United Kingdom's use of SIENA. The Union shall communicate the amount of those costs to the United Kingdom by 31 March 2021. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

3. Eurojust may, upon a request by the United Kingdom, subject to compliance with point (a) of Article 26a(7) and Article 27 of Council Decision 2002/187/JHA <sup>(61)</sup>, provide information, including personal data, from its Case Management system, if necessary to complete the ongoing procedures referred to in points (a), (b) (c), (e) and (l) of paragraph 1 of this Article or the activities of the joint investigation teams referred to in paragraph 2 of this Article. The United Kingdom's competent authorities may, upon request, provide Eurojust with information in their possession if necessary to complete the ongoing procedures referred to in points (a), (b), (c), (e) and (l) of paragraph 1 of this Article or the activities of the joint investigation teams referred to in paragraph 2 of this Article. Where expenses of any extraordinary nature arise out of the application of this paragraph, the Joint Committee shall determine the manner in which such expenses are to be addressed.

#### Article 63

#### **Ongoing law enforcement cooperation proceedings, police cooperation and exchange of information**

1. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows:

- (a) Articles 39 and 40 of the Convention implementing the Schengen Agreement of 14 June 1985 ('Schengen Implementing Convention') <sup>(62)</sup>, in conjunction with Articles 42 and 43 thereof, shall apply in respect of:
  - (i) requests in accordance with Article 39 of the Schengen Implementing Convention that are received before the end of the transition period by the central body responsible in the Contracting Party for international police cooperation or by competent authorities of the requested Party, or by requested police authorities which do not have the power to deal with the request, but which forward the request to the competent authorities;

<sup>(58)</sup> Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338, 21.12.2011, p. 2).

<sup>(59)</sup> Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

<sup>(60)</sup> Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).

<sup>(61)</sup> Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 63, 6.3.2002, p. 1).

<sup>(62)</sup> Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19).

- (ii) requests for assistance in accordance with Article 40(1) of the Schengen Implementing Convention that are received before the end of the transition period by an authority designated by a Contracting Party;
  - (iii) cross-border surveillance that is carried out without prior authorisation in accordance with Article 40(2) of the Schengen Implementing Convention, where that surveillance started before the end of the transition period;
- (b) the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations <sup>(63)</sup> shall apply in respect of:
- (i) requests for information that are received before the end of the transition period by the requested authority;
  - (ii) requests for surveillance that are received before the end of the transition period by the requested authority;
  - (iii) requests for enquiries that are received before the end of the transition period by the requested authority;
  - (iv) requests for notification that are received before the end of the transition period by the requested authority;
  - (v) requests for authorisation of cross-border surveillance or for entrusting observation to the officers of the Member State in whose territory observation is carried out that are received before the end of the transition period by an authority designated by the requested Member State that is empowered to grant the requested authorisation or to pass on the request;
  - (vi) cross-border surveillance that is carried out without prior authorisation in accordance with Article 40(2) of the Schengen Implementing Convention, where that surveillance started before the end of the transition period;
  - (vii) requests to carry out controlled delivery that are received before the end of the transition period by the requested authority;
  - (viii) requests to authorise covert investigations that are received before the end of the transition period by the requested authority;
  - (ix) joint special investigation teams that are set up pursuant to Article 24 of that Convention before the end of the transition period;
- (c) Council Decision 2000/642/JHA <sup>(64)</sup> shall apply in respect of requests that are received before the end of the transition period by the requested Financial Intelligence Unit;
- (d) Council Framework Decision 2006/960/JHA <sup>(65)</sup> shall apply in respect of requests that are received before the end of the transition period by the requested competent law enforcement authority;
- (e) Council Decision 2007/533/JHA <sup>(66)</sup> shall apply in respect of the exchange of supplementary information where there was a hit before the end of the transition period on an alert issued in the Schengen Information System, provided its provisions apply to the United Kingdom on the last day of the transition period. By way of derogation from Article 8 of this Agreement, the United Kingdom shall be entitled to use, for no longer than 3 months after the end of the transition period, the Communication Infrastructure as referred to in Article 8(1) of Decision 2007/533/JHA to the extent strictly necessary for the purpose of exchanging such supplementary information. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating the United Kingdom's use of the Communication Infrastructure. The Union shall communicate to the United Kingdom the amount of those costs by 31 March 2021. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was

<sup>(63)</sup> OJ C 24, 23.1.1998, p. 2.

<sup>(64)</sup> Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information (OJ L 271, 24.10.2000, p. 4).

<sup>(65)</sup> Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (OJ L 386, 29.12.2006, p. 89).

<sup>(66)</sup> Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed;

- (f) Council Decision 2007/845/JHA <sup>(67)</sup> shall apply in respect of requests received before the end of the transition period by an Asset Recovery Office;
- (g) Directive (EU) 2016/681 of the European Parliament and of the Council <sup>(68)</sup> shall apply in respect of requests received by the passenger information unit in accordance with Articles 9 and 10 of that Directive before the end of the transition period.

2. By way of derogation from Article 8, the United Kingdom shall be entitled to use, for no longer than one year after the end of the transition period, the Secure Information Exchange Network Application (SIENA) to the extent strictly necessary to complete the ongoing procedures referred to in points (c), (d), (f) and (g) of paragraph 1 of this Article. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating the United Kingdom's use of SIENA. The Union shall communicate to the United Kingdom the amount of those costs by 31 March 2021. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

#### Article 64

#### Confirmation of receipt or arrest

1. The competent issuing or requesting authority may request an acknowledgement of the receipt of a judicial decision or request referred to in points (a), (c) to (e), (f)(i) and (h) to (l) of Article 62(1) and points (a)(i) and (ii), points (b)(i) to (v) and (vii), (viii) and (ix), and points (c), (d), (f) and (g) of Article 63(1) within 10 days after the end of the transition period where it has doubts as to whether such a judicial decision or request was received by the executing or requested authority before the end of the transition period.
2. In the cases referred to in point (b) of Article 62(1), where the competent issuing judicial authority has doubts as to whether the requested person was arrested pursuant to Article 11 of Framework Decision 2002/584/JHA before the end of the transition period, it may request from the competent executing judicial authority a confirmation of the arrest within 10 days after the end of the transition period.
3. Unless confirmation has already been provided pursuant to the applicable provisions of Union law, the executing or requested authority referred to in paragraphs 1 and 2 shall reply to a request for confirmation of receipt or arrest within 10 days after receiving the request.

#### Article 65

#### Other applicable Union acts

Directive 2010/64/EU of the European Parliament and of the Council <sup>(69)</sup> and Directive 2012/13/EU of the European Parliament and of the Council <sup>(70)</sup> shall apply in respect of the proceedings referred to in point (b) of Article 62(1) of this Agreement.

<sup>(67)</sup> Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime (OJ L 332, 18.12.2007, p. 103).

<sup>(68)</sup> Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (OJ L 119, 4.5.2016, p. 132).

<sup>(69)</sup> Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

<sup>(70)</sup> Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).



## TITLE VI

**Ongoing judicial cooperation in civil and commercial matters**

## Article 66

**Applicable law in contractual and non-contractual matters**

In the United Kingdom, the following acts shall apply as follows:

- (a) Regulation (EC) No 593/2008 of the European Parliament and of the Council <sup>(71)</sup> shall apply in respect of contracts concluded before the end of the transition period;
- (b) Regulation (EC) No 864/2007 of the European Parliament and of the Council <sup>(72)</sup> shall apply in respect of events giving rise to damage, where such events occurred before the end of the transition period.

## Article 67

**Jurisdiction, recognition and enforcement of judicial decisions, and related cooperation between central authorities**

1. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, in respect of legal proceedings instituted before the end of the transition period and in respect of proceedings or actions that are related to such legal proceedings pursuant to Articles 29, 30 and 31 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council <sup>(73)</sup>, Article 19 of Regulation (EC) No 2201/2003 or Articles 12 and 13 of Council Regulation (EC) No 4/2009 <sup>(74)</sup>, the following acts or provisions shall apply:

- (a) the provisions regarding jurisdiction of Regulation (EU) No 1215/2012;
- (b) the provisions regarding jurisdiction of Regulation (EU) 2017/1001, of Regulation (EC) No 6/2002, of Regulation (EC) No 2100/94, of Regulation (EU) 2016/679 of the European Parliament and of the Council <sup>(75)</sup> and of Directive 96/71/EC of the European Parliament and of the Council <sup>(76)</sup>;
- (c) the provisions of Regulation (EC) No 2201/2003 regarding jurisdiction;
- (d) the provisions of Regulation (EC) No 4/2009 regarding jurisdiction.

2. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts or provisions shall apply as follows in respect of the recognition and enforcement of judgments, decisions, authentic instruments, court settlements and agreements:

- (a) Regulation (EU) No 1215/2012 shall apply to the recognition and enforcement of judgments given in legal proceedings instituted before the end of the transition period, and to authentic instruments formally drawn up or registered and court settlements approved or concluded before the end of the transition period;
- (b) the provisions of Regulation (EC) No 2201/2003 regarding recognition and enforcement shall apply to judgments given in legal proceedings instituted before the end of the transition period, and to documents formally drawn up or registered as authentic instruments, and agreements concluded before the end of the transition period;
- (c) the provisions of Regulation (EC) No 4/2009 regarding recognition and enforcement shall apply to decisions given in legal proceedings instituted before the end of the transition period, and to court settlements approved or concluded, and authentic instruments established before the end of the transition period;

<sup>(71)</sup> Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

<sup>(72)</sup> Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ L 199, 31.7.2007, p. 40).

<sup>(73)</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

<sup>(74)</sup> Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7, 10.1.2009, p. 1).

<sup>(75)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(76)</sup> Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

- (d) Regulation (EC) No 805/2004 of the European Parliament and of the Council <sup>(77)</sup> shall apply to judgments given in legal proceedings instituted before the end of the transition period, and to court settlements approved or concluded and authentic instruments drawn up before the end of the transition period, provided that the certification as a European Enforcement Order was applied for before the end of the transition period.
3. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following provisions shall apply as follows:
- (a) Chapter IV of Regulation (EC) No 2201/2003 shall apply to requests and applications received by the central authority or other competent authority of the requested State before the end of the transition period;
- (b) Chapter VII of Regulation (EC) No 4/2009 shall apply to applications for recognition or enforcement as referred to in point (c) of paragraph 2 of this Article and requests received by the central authority of the requested State before the end of the transition period;
- (c) Regulation (EU) 2015/848 of the European Parliament and of the Council <sup>(78)</sup> shall apply to insolvency proceedings, and actions referred to in Article 6(1) of that Regulation, provided that the main proceedings were opened before the end of the transition period;
- (d) Regulation (EC) No 1896/2006 of the European Parliament and of the Council <sup>(79)</sup> shall apply to European payment orders applied for before the end of the transition period; where, following such an application, the proceedings are transferred according to Article 17(1) of that Regulation, the proceedings shall be deemed to have been instituted before the end of the transition period;
- (e) Regulation (EC) No 861/2007 of the European Parliament and of the Council <sup>(80)</sup> shall apply to small claims procedures for which the application was lodged before the end of the transition period;
- (f) Regulation (EU) No 606/2013 of the European Parliament and of the Council <sup>(81)</sup> shall apply to certificates issued before the end of the transition period.

#### Article 68

#### Ongoing judicial cooperation procedures

In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows:

- (a) Regulation (EC) No 1393/2007 of the European Parliament and of the Council <sup>(82)</sup> shall apply to judicial and extrajudicial documents which were received for the purposes of service before the end of the transition period by one of the following:
- (i) a receiving agency;
  - (ii) a central body of the State where the service is to be effected; or
  - (iii) diplomatic or consular agents, postal services or judicial officers, officials or other competent persons of the State addressed, as referred to in Articles 13, 14 and 15 of that Regulation;
- (b) Council Regulation (EC) No 1206/2001 <sup>(83)</sup> shall apply to requests received before the end of the transition period by one of the following:
- (i) a requested court;
  - (ii) a central body of the State where the taking of evidence is requested; or
  - (iii) a central body or competent authority referred to in Article 17(1) of that Regulation;

<sup>(77)</sup> Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ L 143, 30.4.2004, p. 15).

<sup>(78)</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

<sup>(79)</sup> Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (OJ L 399, 30.12.2006, p. 1).

<sup>(80)</sup> Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (OJ L 199, 31.7.2007, p. 1).

<sup>(81)</sup> Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (OJ L 181, 29.6.2013, p. 4).

<sup>(82)</sup> Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, p. 79).

<sup>(83)</sup> Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1).

- (c) Council Decision 2001/470/EC <sup>(84)</sup> shall apply to requests that were received before the end of the transition period; the requesting contact point may request an acknowledgement of receipt within 7 days of the end of the transition period where it has doubts as to whether the request was received before the end of the transition period.

#### Article 69

#### Other applicable provisions

1. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows:

- (a) Council Directive 2003/8/EC <sup>(85)</sup> shall apply to applications for legal aid that were received by the receiving authority before the end of the transition period. The requesting authority may request an acknowledgement of receipt within 7 days of the end of the transition period where it has doubts as to whether the request was received before that date;
- (b) Directive 2008/52/EC of the European Parliament and of the Council <sup>(86)</sup> shall apply where, before the end of the transition period:
- (i) the parties agreed to use mediation after the dispute had arisen;
  - (ii) mediation was ordered by the court; or
  - (iii) a court invited the parties to use mediation;
- (c) Council Directive 2004/80/EC <sup>(87)</sup> shall apply to applications received by the deciding authority before the end of the transition period.

2. Point (a) of paragraph 1 and point (a) of paragraph 2 of Article 67 of this Agreement shall also apply in respect of the provisions of Regulation (EU) No 1215/2012 as applicable by virtue of the agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>(88)</sup>.

3. Point (a) of Article 68 of this Agreement shall also apply with regard to the provisions of Regulation (EC) No 1393/2007 as applicable by virtue of the agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil and commercial matters <sup>(89)</sup>.

#### TITLE VII

#### **Data and information processed or obtained before the end of the transition period, or on the basis of this Agreement**

#### Article 70

#### Definition

For the purposes of this Title, 'Union law on the protection of personal data' means:

- (a) Regulation (EU) 2016/679, with the exception of Chapter VII thereof;
- (b) Directive (EU) 2016/680 of the European Parliament and of the Council <sup>(90)</sup>;
- (c) Directive 2002/58/EC of the European Parliament and of the Council <sup>(91)</sup>;
- (d) any other provisions of Union law governing the protection of personal data.

<sup>(84)</sup> Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).

<sup>(85)</sup> Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 26, 31.1.2003, p. 41).

<sup>(86)</sup> Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (OJ L 136, 24.5.2008, p. 3).

<sup>(87)</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ L 261, 6.8.2004, p. 15).

<sup>(88)</sup> OJ L 299, 16.11.2005, p. 62.

<sup>(89)</sup> OJ L 300, 17.11.2005, p. 55.

<sup>(90)</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>(91)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

*Article 71***Protection of personal data**

1. Union law on the protection of personal data shall apply in the United Kingdom in respect of the processing of personal data of data subjects outside the United Kingdom, provided that the personal data:

- (a) were processed under Union law in the United Kingdom before the end of the transition period; or
- (b) are processed in the United Kingdom after the end of the transition period on the basis of this Agreement.

2. Paragraph 1 shall not apply to the extent the processing of the personal data referred to therein is subject to an adequate level of protection as established in applicable decisions under Article 45(3) of Regulation (EU) 2016/679 or Article 36(3) of Directive (EU) 2016/680.

3. To the extent that a decision referred to in paragraph 2 has ceased to be applicable, the United Kingdom shall ensure a level of protection of personal data essentially equivalent to that under Union law on the protection of personal data in respect of the processing of personal data of data subjects referred to in paragraph 1.

*Article 72***Confidential treatment and restricted use of data and information in the United Kingdom**

Without prejudice to Article 71, in addition to Union law on the protection of personal data, the provisions of Union law on confidential treatment, restriction of use, storage limitation and requirement to erase data and information shall apply in respect of data and information obtained by authorities or official bodies of or in the United Kingdom or by contracting entities, as defined in Article 4 of Directive 2014/25/EU of the European Parliament and of the Council <sup>(2)</sup>, that are of or in the United Kingdom:

- (a) before the end of the transition period; or
- (b) on the basis of this Agreement.

*Article 73***Treatment of data and information obtained from the United Kingdom**

The Union shall not treat data and information obtained from the United Kingdom before the end of the transition period, or obtained after the end of the transition period on the basis of this Agreement, differently from data and information obtained from a Member State, on the sole ground of the United Kingdom having withdrawn from the Union.

*Article 74***Information security**

1. The provisions of Union law on the protection of EU classified information and Euratom classified information shall apply in respect of classified information that was obtained by the United Kingdom either before the end of the transition period or on the basis of this Agreement or that was obtained from the United Kingdom by the Union or a Member State either before the end of the transition period or on the basis of this Agreement.

2. The obligations resulting from Union law regarding industrial security shall apply to the United Kingdom in cases where the tendering, contracting or grant award procedure for the classified contract, classified subcontract or classified grant agreement was launched before the end of the transition period.

3. The United Kingdom shall ensure that cryptographic products that use classified cryptographic algorithms developed under the control of, and evaluated and approved by the Crypto Approval Authority of a Member State or of the United Kingdom, which have been approved by the Union by the end of the transition period and that are present in the United Kingdom, are not transferred to a third country.

4. Any requirements, limitations and conditions set out in the Union approval of cryptographic products shall apply to those products.

<sup>(2)</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

## TITLE VIII

**Ongoing public procurement and similar procedures**

## Article 75

**Definition**

For the purposes of this Title, 'relevant rules' means the general principles of Union law applicable to the award of public contracts, Directives 2009/81/EC<sup>(93)</sup>, 2014/23/EU<sup>(94)</sup>, 2014/24/EU<sup>(95)</sup> and 2014/25/EU<sup>(96)</sup> of the European Parliament and of the Council, Regulations (EC) No 2195/2002<sup>(97)</sup> and (EC) No 1370/2007<sup>(98)</sup> of the European Parliament and of the Council, Article 4 of Council Regulation (EEC) No 3577/92<sup>(99)</sup>, Articles 11 and 12 of Council Directive 96/67/EC<sup>(100)</sup>, Articles 16, 17 and 18 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>(101)</sup>, Articles 6 and 7 of Regulation (EU) 2017/352 of the European Parliament and of the Council<sup>(102)</sup>, and any other specific provisions of Union law governing public procurement procedures.

## Article 76

**Rules applicable to ongoing procedures**

1. The relevant rules shall apply:
  - (a) without prejudice to point (b), in respect of procedures launched by contracting authorities or contracting entities from the Member States or the United Kingdom under those rules before the end of the transition period and not yet finalised on the last day of the transition period, including procedures using dynamic purchasing systems as well as procedures for which the call for competition takes the form of a prior information notice or periodic indicative notice or a notice on the existence of a qualification system; and
  - (b) in respect of the procedures referred to in Article 29(2), (3) and (4) of Directive 2009/81/EC, Article 33(2) to (5) of Directive 2014/24/EU and Article 51(2) of Directive 2014/25/EU which relate to the performance of the following framework agreements concluded by contracting authorities or contracting entities from the Member States or the United Kingdom, including the award of contracts based on such framework agreements:
    - (i) framework agreements concluded before the end of the transition period that have neither expired nor been terminated on the last day of the transition period; or
    - (ii) framework agreements concluded after the end of the transition period in accordance with a procedure that falls under point (a) of this paragraph.
2. Without prejudice to the application of any restriction in accordance with Union law, the non-discrimination principle shall be complied with by contracting authorities and contracting entities with regard to tenderers or, as applicable, persons who are otherwise entitled to submit applications, from the Member States and the United Kingdom in relation to the procedures referred to in paragraph 1.

<sup>(93)</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

<sup>(94)</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

<sup>(95)</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

<sup>(96)</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

<sup>(97)</sup> Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).

<sup>(98)</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

<sup>(99)</sup> Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7).

<sup>(100)</sup> Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (OJ L 272, 25.10.1996, p. 36).

<sup>(101)</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

<sup>(102)</sup> Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p. 1).

3. A procedure referred to in paragraph 1 shall be considered to have been launched when a call for competition or any other invitation to submit applications has been made in accordance with the relevant rules. Where the relevant rules allow for the use of procedures that do not require the use of a call for competition or other invitations to submit applications, the procedure shall be considered to have been launched when the contracting authority or contracting entity contacted economic operators in relation to the specific procedure.

4. A procedure referred to in paragraph 1 shall be considered finalised:

- (a) upon publication of a contract award notice in accordance with the relevant rules or, where those rules do not require the publication of a contract award notice, upon conclusion of the relevant contract; or
- (b) upon informing tenderers or persons otherwise entitled to submit applications, as the case may be, of the reasons why the contract was not awarded, if the contracting authority or contracting entity decided not to award a contract.

5. This Article shall not affect Union or United Kingdom rules on customs, the movement of goods, the provision of services, the recognition of professional qualifications or intellectual property.

#### Article 77

### Review procedures

Council Directives 89/665/EEC <sup>(103)</sup> and 92/13/EEC <sup>(104)</sup> shall apply in respect of the public procurement procedures referred to in Article 76 of this Agreement which fall within the scope of those Directives.

#### Article 78

### Cooperation

By way of derogation from Article 8 of this Agreement, Article 61(2) of Directive 2014/24/EU shall apply for a period not exceeding 9 months from the end of the transition period in respect of the procedures under that Directive that were launched by contracting authorities from the United Kingdom before the end of the transition period and were not yet finalised on the last day of the transition period.

#### TITLE IX

### Euratom related issues

#### Article 79

### Definitions

For the purposes of this Title, the following definitions shall apply:

- (a) 'Community' means the European Atomic Energy Community;
- (b) 'safeguards' means activities to verify that nuclear material and equipment are not diverted from their intended use as declared by the users and activities to verify that international legal obligations to use nuclear material and equipment for peaceful purposes are honoured;
- (c) 'special fissile materials' means special fissile materials as defined in point (1) of Article 197 of the Euratom Treaty;
- (d) 'ores' means ores as defined in point (4) of Article 197 of the Euratom Treaty;
- (e) 'source materials' means source materials as defined in point (3) of Article 197 of the Euratom Treaty;
- (f) 'nuclear material' means ores, source materials and special fissile materials;
- (g) 'spent fuel' and 'radioactive waste' mean spent fuel and radioactive waste as defined in points (7) and (11) of Article 3 of Council Directive 2011/70/Euratom <sup>(105)</sup>.

<sup>(103)</sup> Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

<sup>(104)</sup> Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

<sup>(105)</sup> Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48).

*Article 80***End of Community responsibility for matters related to the United Kingdom**

1. The United Kingdom shall have sole responsibility for ensuring that all ores, source materials and special fissile materials covered by the Euratom Treaty and present on the territory of the United Kingdom at the end of the transition period are handled in accordance with relevant and applicable international treaties and conventions, including but not limited to international treaties and conventions on nuclear safety, safeguards, non-proliferation and physical protection of nuclear materials, and international treaties and conventions on safety of spent fuel management and the safety of radioactive waste management.

2. The United Kingdom shall have sole responsibility for ensuring its compliance with international obligations arising as a consequence of its membership of the International Atomic Energy Agency or as a consequence of the Treaty on the Non-Proliferation of Nuclear Weapons or any other relevant international treaties or conventions to which the United Kingdom is a party.

*Article 81***Safeguards**

The United Kingdom shall implement a safeguards regime. This safeguards regime shall apply a system offering equivalent effectiveness and coverage as that provided by the Community in the territory of the United Kingdom in line with the Agreement between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in the United Kingdom of Great Britain and Northern Ireland in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons [INFCIRC/263], as amended.

*Article 82***Specific obligations under international agreements**

The United Kingdom shall ensure that any specific obligations under agreements concluded by the Community with third countries or international organisations in relation to any nuclear equipment, nuclear material or other nuclear items present on the territory of the United Kingdom at the end of the transition period are fulfilled, or otherwise identify appropriate arrangements in agreement with the third country or international organisation concerned.

*Article 83***Ownership and rights of use and consumption of special fissile materials in the United Kingdom**

1. Special fissile materials present on the territory of the United Kingdom in respect of which Article 86 of the Euratom Treaty applied until the end of the transition period shall cease to be the property of the Community at the end of the transition period.

2. Special fissile materials referred to in paragraph 1 shall become the property of the persons or undertakings that had unlimited right of use and consumption of those materials at the end of the transition period in accordance with Article 87 of the Euratom Treaty.

3. Where the right of use and consumption of special fissile materials referred to in paragraph 2 ('materials concerned') is with a Member State, or with persons or undertakings established in the territory of a Member State, in order to protect the integrity of the common supply policy established under Chapter 6 of Title II of the Euratom Treaty and of the nuclear common market established under Chapter 9 of that Title, including with regard to the level of safeguards applicable to the materials concerned, the following shall apply:

- (a) having regard to Article 5 of this Agreement, the Community shall have the right to require that the materials concerned be deposited with the Agency established under point (b) of Article 52(2) of the Euratom Treaty or in other stores which are or can be supervised by the European Commission;
- (b) the Community shall have the right to conclude contracts relating to the supply of the materials concerned to any person or undertaking established in the territory of the United Kingdom or in a third country in accordance with Article 52(2) of the Euratom Treaty;

- (c) Article 20 of Commission Regulation (Euratom) No 302/2005 <sup>(106)</sup>, with the exception of points (b) and (c) of paragraph 1, shall apply in respect of the materials concerned;
- (d) the export of the materials concerned to a third country shall be authorised by the competent authorities of the Member State in which the person or undertaking with the right to use and consume the materials concerned is established in accordance with Article 9(2) of Council Regulation (EC) No 428/2009 <sup>(107)</sup>;
- (e) in respect of the materials concerned, the Community shall have the right to exert any other rights arising under the Euratom Treaty from ownership pursuant to Article 86 of that Treaty.
4. Member States, persons or undertakings that have the unlimited right of use and consumption of special fissile materials present on the territory of the United Kingdom at the end of the transition period shall retain that right.

#### Article 84

### Equipment and other property related to the provision of safeguards

1. Community equipment and other property related to the provision of safeguards under the Euratom Treaty located in the United Kingdom at the end of the transition period, as set out at Annex V, shall become the property of the United Kingdom. The United Kingdom shall reimburse to the Union the value of that equipment and other property, the calculation of which shall be based on the value assigned to that equipment and other property in the consolidated accounts for the year 2020.
2. The United Kingdom shall assume all of the Community's rights, liabilities and obligations associated with the equipment and other property referred to in paragraph 1.

#### Article 85

### Spent fuel and radioactive waste

Article 4(1) and (2) and the first subparagraph of Article 4(4) of Directive 2011/70/Euratom shall apply in respect of the United Kingdom's ultimate responsibility for spent fuel and radioactive waste that was generated in the United Kingdom and is present on the territory of a Member State at the end of the transition period.

#### TITLE X

### Union judicial and administrative procedures

#### Chapter 1

### Judicial procedures

#### Article 86

### Pending cases before the Court of Justice of the European Union

1. The Court of Justice of the European Union shall continue to have jurisdiction in any proceedings brought by or against the United Kingdom before the end of the transition period. Such jurisdiction shall apply to all stages of proceedings, including appeal proceedings before the Court of Justice and proceedings before the General Court where the case is referred back to the General Court.
2. The Court of Justice of the European Union shall continue to have jurisdiction to give preliminary rulings on requests from courts and tribunals of the United Kingdom made before the end of the transition period.
3. For the purposes of this Chapter, proceedings shall be considered as having been brought before the Court of Justice of the European Union, and requests for preliminary rulings shall be considered as having been made, at the moment at which the document initiating the proceedings has been registered by the registry of the Court of Justice or the General Court, as the case may be.

#### Article 87

### New cases before the Court of Justice

1. If the European Commission considers that the United Kingdom has failed to fulfil an obligation under the Treaties or under Part Four of this Agreement before the end of the transition period, the European Commission may, within 4 years after the end of the transition period, bring the matter before the Court of Justice of the European Union in accordance with the requirements laid down in Article 258 TFEU or the second subparagraph of Article 108(2) TFEU, as the case may be. The Court of Justice of the European Union shall have jurisdiction over such cases.

<sup>(106)</sup> Commission Regulation (Euratom) No 302/2005 of 8 February 2005 on the application of Euratom safeguards (OJ L 54, 28.2.2005, p. 1).

<sup>(107)</sup> Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).



2. If the United Kingdom does not comply with a decision referred to in Article 95(1) of this Agreement, or fails to give legal effect in the United Kingdom's legal order to a decision, as referred to in that provision, that was addressed to a natural or legal person residing or established in the United Kingdom, the European Commission may, within 4 years from the date of the decision concerned, bring the matter to the Court of Justice of the European Union in accordance with the requirements laid down in Article 258 TFEU or the second subparagraph of Article 108(2) TFEU, as the case may be. The Court of Justice of the European Union shall have jurisdiction over such cases.

3. In deciding to bring matters under this Article, the European Commission shall apply the same principles in respect of the United Kingdom as in respect of any Member State.

#### Article 88

### Procedural rules

The provisions of Union law governing the procedure before the Court of Justice of the European Union shall apply in respect of the proceedings and requests for preliminary rulings referred to in this Title.

#### Article 89

### Binding force and enforceability of judgments and orders

1. Judgments and orders of the Court of Justice of the European Union handed down before the end of the transition period, as well as such judgments and orders handed down after the end of the transition period in proceedings referred to in Articles 86 and 87, shall have binding force in their entirety on and in the United Kingdom.

2. If, in a judgment referred to in paragraph 1, the Court of Justice of the European Union finds that the United Kingdom has failed to fulfil an obligation under the Treaties or this Agreement, the United Kingdom shall take the necessary measures to comply with that judgment.

3. Articles 280 and 299 TFEU shall apply in the United Kingdom in respect of the enforcement of the judgments and orders of the Court of Justice of the European Union referred to in paragraph 1 of this Article.

#### Article 90

### Right to intervene and participate in the procedure

Until the judgments and orders of the Court of Justice of the European Union in all proceedings and requests for preliminary rulings referred to in Article 86 have become final, the United Kingdom may intervene in the same way as a Member State or, in the cases brought before the Court of Justice of the European Union in accordance with Article 267 TFEU, participate in the procedure before the Court of Justice of the European Union in the same way as a Member State. During that period, the Registrar of the Court of Justice of the European Union shall notify the United Kingdom, at the same time and in the same manner as the Member States, of any case referred to the Court of Justice of the European Union for a preliminary ruling by a court or tribunal of a Member State.

The United Kingdom may also intervene or participate in the procedure before the Court of Justice of the European Union in the same way as a Member State:

- (a) in relation to cases which concern a failure to fulfil obligations under the Treaties, where the United Kingdom was subject to the same obligations before the end of the transition period, and where such cases are brought before the Court of Justice of the European Union in accordance with Articles 258 TFEU before the end of the period referred to in Article 87(1) or, as the case may be, until the moment, after the end of that period, at which the last judgment or order rendered by the Court of Justice of the European Union on the basis of Article 87(1) has become final;
- (b) in relation to cases which concern acts or provisions of Union law which were applicable before the end of the transition period to and in the United Kingdom and which are brought before Court of Justice of the European Union in accordance with Article 267 TFEU before the end of the period referred to in Article 87(1) or, as the case may be, until the moment, after the end of that period, at which the last judgment or order rendered by the Court of Justice on the basis of Article 87(1) has become final; and
- (c) in relation to the cases referred to in Article 95(3).

## Article 91

**Representation before the Court**

1. Without prejudice to Article 88, where, before the end of the transition period, a lawyer authorised to practise before the courts or tribunals of the United Kingdom represented or assisted a party in proceedings before the Court of Justice of the European Union or in relation to requests for preliminary rulings made before the end of the transition period, that lawyer may continue to represent or assist that party in those proceedings or in relation to those requests. This right shall apply to all stages of proceedings, including appeal proceedings before the Court of Justice and proceedings before the General Court after a case has been referred back to it.

2. Without prejudice to Article 88, lawyers authorised to practise before the courts or tribunals of the United Kingdom may represent or assist a party before the Court of Justice of the European Union in the cases referred to in Article 87 and Article 95(3). Lawyers authorised to practise before the courts or tribunals of the United Kingdom may also represent or assist the United Kingdom in the proceedings covered by Article 90 in which the United Kingdom has decided to intervene or participate.

3. When representing or assisting a party before the Court of Justice of the European Union in the cases referred to in paragraphs 1 and 2, lawyers authorised to practise before the courts or tribunals of the United Kingdom shall in every respect be treated as lawyers authorised to practise before courts or tribunals of Member States representing or assisting a party before the Court of Justice of the European Union.

## Chapter 2

**Administrative procedures**

## Article 92

**Ongoing administrative procedures**

1. The institutions, bodies, offices and agencies of the Union shall continue to be competent for administrative procedures which were initiated before the end of the transition period concerning:

- (a) compliance with Union law by the United Kingdom, or by natural or legal persons residing or established in the United Kingdom; or
- (b) compliance with Union law relating to competition in the United Kingdom.

2. Without prejudice to paragraph 3, for the purposes of this Chapter an administrative procedure shall be considered as having been initiated at the moment at which it has been formally registered with the Union institution, body, office or agency.

3. For the purposes of this Chapter:

- (a) an administrative procedure on State aid governed by Council Regulation (EU) 2015/1589 <sup>(108)</sup> shall be considered as having been initiated at the moment at which the procedure has been allocated a case number;
- (b) proceedings for the application of Article 101 or 102 TFEU conducted by the European Commission under Council Regulation (EC) No 1/2003 <sup>(109)</sup> shall be considered as having been initiated at the moment at which the European Commission has decided to initiate proceedings in accordance with Article 2(1) of Commission Regulation (EC) No 773/2004 <sup>(110)</sup>;
- (c) proceedings in connection with the control of concentrations between undertakings governed by Council Regulation (EC) No 139/2004 <sup>(111)</sup> shall be considered as having been initiated at the moment at which:
  - (i) a concentration of Union dimension has been notified to the European Commission in accordance with Articles 1, 3 and 4 of Regulation (EC) No 139/2004;
  - (ii) the time limit of 15 working days referred to in Article 4(5) of Regulation (EC) No 139/2004 has expired without any of the Member States competent to examine the concentration under their national competition law having expressed its disagreement as regards the request to refer the case to the European Commission; or
  - (iii) the European Commission has decided, or is deemed to have decided, to examine the concentration in accordance with Article 22(3) of Regulation (EC) No 139/2004;

<sup>(108)</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

<sup>(109)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

<sup>(110)</sup> Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

<sup>(111)</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1).

(d) an investigation by the European Securities and Markets Authority of an alleged infringement listed in Annex III to Regulation (EC) No 1060/2009 of the European Parliament and of the Council <sup>(112)</sup> or Annex I to Regulation (EU) No 648/2012 of the European Parliament and of the Council <sup>(113)</sup> shall be considered as having been initiated at the moment at which that Authority has appointed an independent investigating officer in accordance with Article 23e(1) of Regulation (EC) No 1060/2009 or Article 64(1) of Regulation (EU) No 648/2012.

4. The Union shall provide the United Kingdom with a list of all individual ongoing administrative procedures that fall within the scope of paragraph 1 within 3 months after the end of the transition period. By way of derogation from the first sentence, in the case of individual ongoing administrative procedures of the European Banking Authority, the European Securities and Markets Authority, and the European Insurance and Occupational Pensions Authority, the Union shall provide the United Kingdom with a list of such ongoing administrative procedures within 1 month after the end of the transition period.

5. In an administrative procedure on State aid governed by Regulation (EU) 2015/1589, the European Commission shall be bound in relation to the United Kingdom by the applicable case law and best practices, as if the United Kingdom were still a Member State. In particular, the European Commission shall, within a reasonable period of time, adopt one of the following decisions:

- (a) a decision finding that the measure does not constitute aid pursuant to Article 4(2) of Regulation (EU) 2015/1589;
- (b) a decision not to raise objections pursuant to Article 4(3) of Regulation (EU) 2015/1589;
- (c) a decision to initiate formal investigation proceedings pursuant to Article 4(4) of Regulation (EU) 2015/1589.

#### Article 93

#### **New State aid and European Anti-Fraud Office procedures**

1. In respect of aid granted before the end of the transition period, for a period of 4 years after the end of the transition period, the European Commission shall be competent to initiate new administrative procedures on State aid governed by Regulation (EU) 2015/1589 concerning the United Kingdom.

The European Commission shall continue to be competent after the end of the 4-year period for procedures initiated before the end of that period.

Article 92(5) of this Agreement shall apply *mutatis mutandis*.

The European Commission shall inform the United Kingdom of any new administrative proceedings on State aid initiated under the first subparagraph of this paragraph within 3 months of initiating it.

2. Without prejudice to Articles 136 and 138 of this Agreement, for a period of 4 years after the end of the transition period, the European Anti-Fraud Office (OLAF) shall be competent to initiate new investigations governed by Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(114)</sup> in respect of:

- (a) facts that occurred before the end of the transition period; or
- (b) any customs debt arising after the end of the transition period from the discharge procedures referred to in Article 49(1) of this Agreement.

OLAF shall continue to be competent after the end of the 4-year period for procedures initiated before the end of that period.

OLAF shall inform the United Kingdom of any new investigation initiated under the first subparagraph of this paragraph within 3 months of initiating that investigation.

<sup>(112)</sup> Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

<sup>(113)</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>(114)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

*Article 94***Procedural rules**

1. The provisions of Union law governing the different types of administrative procedures covered by this Chapter shall apply to the procedures referred to in Articles 92, 93 and 96.
2. When representing or assisting a party in relation to the administrative procedures referred to in Articles 92 and 93, the lawyers authorised to practise before the courts or tribunals of the United Kingdom shall in every respect be treated as lawyers authorised to practise before courts or tribunals of Member States who represent or assist a party in relation to such administrative procedures.
3. Article 128(5) shall apply to the extent necessary for any procedures referred to in Articles 92 and 93 after the end of the transition period.

*Article 95***Binding force and enforceability of decisions**

1. Decisions adopted by institutions, bodies, offices and agencies of the Union before the end of the transition period, or adopted in the procedures referred to in Articles 92 and 93 after the end of the transition period, and addressed to the United Kingdom or to natural and legal persons residing or established in the United Kingdom, shall be binding on and in the United Kingdom.
2. Unless otherwise agreed between the European Commission and the designated national competition authority of the United Kingdom, the European Commission shall continue to be competent to monitor and enforce commitments given or remedies imposed in, or in relation to, the United Kingdom in connection with any proceedings for the application of Articles 101 or 102 TFEU conducted by the European Commission under Regulation (EC) No 1/2003 or proceedings conducted by the European Commission under Regulation (EC) No 139/2004 in connection with the control of concentrations between undertakings. If so agreed between the European Commission and the designated national competition authority of the United Kingdom, the European Commission shall transfer the monitoring and enforcement of such commitments or remedies in the United Kingdom to the designated national competition authority of the United Kingdom.
3. The legality of a decision referred to in paragraph 1 of this Article shall be reviewed exclusively by the Court of Justice of the European Union in accordance with Article 263 TFEU.
4. Article 299 TFEU shall apply in the United Kingdom in respect of the enforcement of decisions referred to in paragraph 1 of this Article that impose pecuniary obligations on natural and legal persons residing or established in the United Kingdom.

*Article 96***Other ongoing procedures and reporting obligations**

1. Technical examinations conducted by United Kingdom Examination Offices in cooperation with the Community Plant Variety Office pursuant to Regulation (EC) No 2100/94 which were ongoing on the day before the date of entry into force of this Agreement shall continue and be concluded in compliance with that Regulation.
2. Article 12(2a) and (3) and Articles 14, 15 and 16 of Directive 2003/87/EC of the European Parliament and of the Council <sup>(15)</sup> shall apply to and in the United Kingdom in respect of greenhouse gases emitted during the last year of the transition period.
3. Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council <sup>(16)</sup> and Articles 26 and 27 of Regulation (EC) No 1005/2009 of the European Parliament and of the Council <sup>(17)</sup> shall apply to and in the United Kingdom in respect of data reporting for the last year of the transition period.

<sup>(15)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>(16)</sup> Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195).

<sup>(17)</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1).

4. Article 8(1), (2), (3) and (7) of Regulation (EC) 443/2009 of the European Parliament and of the Council <sup>(118)</sup>, and Annex II to that Regulation, and Article 8(1), (2), (3), (8) and (10) of Regulation (EU) 510/2011 of the European Parliament and of the Council <sup>(119)</sup>, and Annex II to that Regulation, as well as Articles 2 to 5, 7 and 8(2) and (3) of Commission Regulation (EU) No 1014/2010 and Articles 3 to 6 and 8 and Article 9(2) and (3) of Commission Implementing Regulation (EU) No 293/2012 <sup>(120)</sup> shall apply to and in the United Kingdom in respect of the monitoring and reporting of relevant vehicle carbon dioxide emissions during the last year of the transition period.

5. Articles 5, 7, 9 and 10, Article 11(3), points (a) and (d) of Article 17(1), and Articles 19, 22 and 23 of Regulation (EU) No 525/2013 of the European Parliament and of the Council <sup>(121)</sup> and Articles 3, 7 and 11 of Decision No 406/2009/EC of the European Parliament and of the Council <sup>(122)</sup> shall apply to the United Kingdom in respect of greenhouse gases emitted during 2019 and 2020, and Article 5 of Commission Regulation (EU) No 389/2013 <sup>(123)</sup> shall apply to the United Kingdom until the closure of the second commitment period of the Kyoto Protocol.

6. By way of derogation from Article 8 of this Agreement:

(a) to the extent necessary to comply with paragraphs 2, 4 and 5 of this Article, the United Kingdom and operators in the United Kingdom shall have access to:

- (i) the Union Registry and the United Kingdom's Kyoto Protocol Registry established by Regulation (EU) No 389/2013; and
- (ii) the Central Data Repository of the European Environment Agency as provided for by Regulation (EU) No 1014/2010, Implementing Regulation (EU) No 293/2012 and Commission Implementing Regulation (EU) No 749/2014 <sup>(124)</sup>;

(b) to the extent necessary to comply with paragraph 3 of this Article undertakings in the United Kingdom shall have access to:

- (i) the reporting tool based on the format set out in the Annex to Commission Implementing Regulation (EU) No 1191/2014 <sup>(125)</sup> for the purposes of managing and reporting on fluorinated greenhouse gases; and
- (ii) the Business Data Repository used for reporting by undertakings under Article 27 of Regulation (EC) No 1005/2009.

Upon a request from the United Kingdom, for a period ending one year after the end of the transition period, the Union shall provide the necessary information for the United Kingdom to:

(a) comply with its reporting obligations under Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer; and

(b) apply penalties in accordance with Article 25 of Regulation (EU) No 517/2014 and Article 29 of Regulation (EC) No 1005/2009.

<sup>(118)</sup> Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1).

<sup>(119)</sup> Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (OJ L 145, 31.5.2011, p. 1).

<sup>(120)</sup> Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council (OJ L 98, 4.4.2012, p. 1).

<sup>(121)</sup> Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

<sup>(122)</sup> Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).

<sup>(123)</sup> Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L 122, 3.5.2013, p. 1).

<sup>(124)</sup> Commission Implementing Regulation (EU) No 749/2014 of 30 June 2014 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 203, 11.7.2014, p. 23).

<sup>(125)</sup> Commission Implementing Regulation (EU) No 1191/2014 of 30 October 2014 determining the format and means for submitting the report referred to in Article 19 of Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases (OJ L 318, 5.11.2014, p. 5).

*Article 97***Representation in ongoing proceedings before the European Union Intellectual Property Office**

Where, before the end of the transition period, a person who is authorised to represent a natural or legal person before the European Union Intellectual Property Office in accordance with Union law was representing a party in a procedure brought before that Office, that representative may continue to represent that party in that procedure. This right shall apply to all stages of the procedure before that Office.

When representing a party before the European Union Intellectual Property Office in the proceedings referred to in the first subparagraph, such representative shall in every respect be treated as a professional representative authorised to represent a natural or legal person before the European Union Intellectual Property Office in accordance with Union law.

*TITLE XI****Administrative cooperation procedures between Member States and the United Kingdom****Article 98***Administrative cooperation for customs**

1. Administrative cooperation procedures between a Member State and the United Kingdom set out in Annex VI that were launched in accordance with Union law before the end of the transition period shall be completed by that Member State and the United Kingdom in accordance with the relevant provisions of Union law.

2. Administrative cooperation procedures between a Member State and the United Kingdom set out in Annex VI that are launched within a period of 3 years after the end of the transition period but concern facts that occurred before the end of the transition period shall be completed by that Member State and the United Kingdom in accordance with the relevant provisions of Union law.

*Article 99***Administrative cooperation for matters related to indirect tax**

1. Council Regulation (EU) No 904/2010<sup>(126)</sup> shall apply until 4 years after the end of the transition period in respect of cooperation between the competent authorities responsible for the application of the legislation on VAT in the Member States and the United Kingdom in relation to transactions that took place before the end of the transition period and in relation to transactions covered by Article 51(1) of this Agreement.

2. Council Regulation (EU) No 389/2012<sup>(127)</sup> shall apply until 4 years after the end of the transition period in respect of cooperation between the competent authorities responsible for the application of the legislation on excise duties in the Member States and the United Kingdom in relation to movements of excise goods that took place before the end of the transition period and in relation to movements of excise goods covered by Article 52 of this Agreement.

3. By way of derogation from Article 8, the United Kingdom shall have access, to the extent strictly necessary to exercise its rights and comply with obligations under this Article, to the networks, information systems and databases listed in Annex IV. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating that access. The Union shall communicate to the United Kingdom the amount of those costs by 31 March of each year until the end of the period referred to in Annex IV. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

<sup>(126)</sup> Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

<sup>(127)</sup> Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).

*Article 100***Mutual assistance for the recovery of claims relating to taxes, duties and other measures**

1. Council Directive 2010/24/EU <sup>(128)</sup> shall apply until 5 years after the end of the transition period between the Member States and the United Kingdom in respect of claims relating to amounts that became due before the end of the transition period, claims relating to transactions that took place before the end of the transition period but where the amounts became due after that period, and claims relating to transactions covered by Article 51(1) of this Agreement or movements of excise goods covered by Article 52 of this Agreement.

2. By way of derogation from Article 8, the United Kingdom shall have access, to the extent strictly necessary to exercise its rights and comply with obligations under this Article, to the networks, information systems and databases listed in Annex IV. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating that access. The Union shall communicate to the United Kingdom the amount of those costs by 31 March of each year until the end of the period referred to in Annex IV. In the event that the communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

*TITLE XII***Privileges and immunities***Article 101***Definitions**

1. For the purposes of this Title, 'members of the institutions' means, irrespective of their nationality, the President of the European Council, the members of the European Commission, the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, the members of the Court of Auditors, the members of the organs of the European Central Bank, the members of the organs of the European Investment Bank, as well as all other persons assimilated to any of those categories of persons under Union law for the purposes of Protocol (No 7) on the Privileges and Immunities of the European Union ('Protocol on the Privileges and Immunities'). The term 'members of the institutions' does not include members of the European Parliament.

2. Regulation (EURATOM, ECSC, EEC) No 549/69 of the Council <sup>(129)</sup> shall apply to determine the categories of officials and other servants covered by Articles 110 to 113 of this Agreement.

*Chapter 1***Property, funds, assets and operations of the Union***Article 102***Inviolability**

Article 1 of the Protocol on the Privileges and Immunities shall apply in respect of premises, buildings, property and assets of the Union in the United Kingdom used by the Union before the end of the transition period, until they are no longer in official use or have been removed from the United Kingdom. The Union shall notify the United Kingdom when its premises, buildings, property or assets are no longer in such use or have been removed from the United Kingdom.

*Article 103***Archives**

Article 2 of the Protocol on the Privileges and Immunities shall apply in respect of all archives of the Union in the United Kingdom at the end of the transition period, until they have been removed from the United Kingdom. The Union shall notify the United Kingdom of the removal of any of its archives from the United Kingdom.

<sup>(128)</sup> Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

<sup>(129)</sup> Regulation (EURATOM, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1).

*Article 104***Taxation**

Article 3 of the Protocol on the Privileges and Immunities shall apply in respect of the Union's assets, revenues and other property in the United Kingdom at the end of the transition period, until they are no longer in official use or have been removed from the United Kingdom.

## Chapter 2

**Communications***Article 105***Communications**

Article 5 of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of the official communications, official correspondence, and transmission of documents in relation to activities of the Union pursuant to this Agreement.

## Chapter 3

**Members of the European Parliament***Article 106***Immunity of members of the European Parliament**

Article 8 of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of opinions expressed or votes cast before the end of the transition period by members of the European Parliament, including former members, irrespective of their nationality, in the performance of their duties.

*Article 107***Social security**

Former members of the European Parliament, irrespective of their nationality, who draw a pension in that capacity, as well as persons entitled to survivor's pensions as survivors of former members, irrespective of their nationality, shall be exempted from obligatory affiliation to and payment into national social security systems in the United Kingdom, under the same conditions as were applicable on the last day of the transition period, provided that the former members of the European Parliament were members of the European Parliament before the end of the transition period.

*Article 108***Avoidance of double taxation on pensions and transitional allowances**

Articles 12, 13 and 14 of Decision 2005/684/EC, Euratom of the European Parliament <sup>(130)</sup> shall apply in the United Kingdom in respect of pensions and transitional allowances paid to former members of the European Parliament, irrespective of their nationality, and Article 17 of that Decision shall apply in respect of persons entitled to survivor's pensions as survivors of former members, irrespective of their nationality, to the extent that the entitlement to a pension or transitional allowance was earned before the end of the transition period.

## Chapter 4

**Representatives of Member States and of the United Kingdom taking part in the work of the institutions of the Union***Article 109***Privileges, immunities and facilities**

1. Article 10 of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of representatives of Member States and of the United Kingdom who take part in the work of the institutions, bodies, offices and agencies of the Union, of their advisers and technical experts, and of members of the advisory bodies of the Union, irrespective of their nationality, as regards their participation in such work:

- (a) that took place before the end of the transition period;
- (b) that takes place after the end of the transition period in connection with activities of the Union pursuant to this Agreement.

<sup>(130)</sup> Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ L 262, 7.10.2005, p. 1).



2. Article 10 of the Protocol on the Privileges and Immunities shall apply in the Union in respect of representatives of the United Kingdom who take part in the work of the institutions, bodies, offices and agencies of the Union, and of their advisers and technical experts, as regards their participation in such work:

- (a) that took place before the end of the transition period;
- (b) that takes place after the end of the transition period in connection with activities of the Union pursuant to this Agreement.

## Chapter 5

### Members of the institutions, officials and other servants

#### Article 110

##### Privileges and Immunities

1. Article 11(a) of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of acts performed, including in respect of their words spoken or written, by members of the institutions, officials and other servants of the Union, including former members, former officials and former other servants, of any nationality, in their official capacity:

- (a) before the end of the transition period;
- (b) after the end of the transition period in connection with activities of the Union pursuant to this Agreement.

2. The first, second and third paragraphs of Article 3 of Protocol (No 3) on the Statute of the Court of Justice of the European Union shall apply in the United Kingdom in respect of the Judges of the Court of Justice of the European Union and the Advocates-General until the decisions of the Court of Justice of the European Union in all proceedings and requests for preliminary rulings referred to in Articles 86 and 87 of this Agreement have become final, and shall apply thereafter, including in respect of former Judges and former Advocates-General, as regards all acts performed by them in their official capacity, including words spoken or written, before the end of the transition period or in relation to the proceedings referred to in Articles 86 and 87.

3. Article 11(b) to (e) of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of officials and other servants of the Union of any nationality, as well as in respect of their spouses and dependent members of their families, irrespective of their nationality, if those officials or other servants entered the service of the Union before the end of the transition period, until those persons have completed their relocation to the Union.

#### Article 111

##### Taxation

Article 12 of the Protocol on the Privileges and Immunities shall apply in the United Kingdom in respect of members of the institutions, officials and other servants of the Union of any nationality, including former members, former officials and former other servants, if those members, officials or other servants entered the service of the Union before the end of the transition period, provided that the persons concerned are liable to pay tax for the benefit of the Union on the salaries, wages, emoluments and pensions paid to them by the Union.

#### Article 112

##### Domicile for tax purposes

1. Article 13 of the Protocol on the Privileges and Immunities shall apply in respect of members of the institutions, officials and other servants of the Union of any nationality, who entered the service of the Union before the end of the transition period, as well as, irrespective of their nationality, in respect of spouses not separately engaged in a gainful occupation and children who are dependent on and in the care of such members, officials or other servants.

2. Paragraph 1 shall apply only in respect of persons who established their residence in a Member State solely by reason of the performance of their duties in the service of the Union and who had their domicile in the United Kingdom for tax purposes at the time of entering the service of the Union, and in respect of persons who established their residence in the United Kingdom solely by reason of the performance of their duties in the service of the Union and who had their domicile for tax purposes in a Member State at the time of entering the service of the Union.

*Article 113***Social security contributions**

Members of the institutions, officials and other servants of the Union of any nationality, including former members, former officials and former other servants, who entered the service of the Union before the end of the transition period and who reside in the United Kingdom, as well as, irrespective of their nationality, spouses not separately engaged in a gainful occupation and children who are dependent on and in the care of such members, officials or other servants, shall be exempted from obligatory affiliation to and payment into national social security systems in the United Kingdom, under the same conditions as were applicable on the last day of the transition period, provided that the persons concerned are affiliated to the social security scheme of the Union.

*Article 114***Transfer of pension rights**

In respect of officials and other servants of the Union of any nationality, including former officials and former other servants, who entered the service of the Union before the end of the transition period and who seek to transfer pension rights out of or into the United Kingdom pursuant to Article 11(1), (2) or (3) and Article 12 of Annex VIII to the Staff Regulations of Officials of the European Union<sup>(131)</sup> or Articles 39, 109 and 135 of the Conditions of Employment of Other Servants of the European Union, the obligations of the United Kingdom shall be the same as those existing before the end of the transition period.

*Article 115***Unemployment insurance**

Articles 28a, 96, and 136 of the Conditions of Employment of Other Servants of the European Union shall apply in respect of other servants of the Union of any nationality, including former other servants, who contributed to the Union's unemployment scheme before the end of the transition period if they reside in the United Kingdom and are registered with the unemployment authorities of the United Kingdom after the end of the transition period.

*Chapter 6***Other provisions***Article 116***Waiver of immunities and cooperation**

1. Articles 17 and 18 of the Protocol on the Privileges and Immunities shall apply in respect of privileges, immunities and facilities accorded by this Title.
2. When taking a decision under Article 17 of the Protocol on the Privileges and Immunities on whether to waive immunity upon the request of the authorities of the United Kingdom, the Union shall afford the same consideration as it affords to requests from the authorities of the Member States in comparable situations.
3. Upon the request of the authorities of the United Kingdom, the Union shall notify those authorities of the status of any person which is relevant to that person's entitlement to a privilege or immunity under this Title.

*Article 117***European Central Bank**

1. This Title shall apply in respect of the European Central Bank ('ECB'), the members of its organs, its staff, and the representatives of the national central banks in the European System of Central Banks ('ESCB') who take part in the activities of the ECB.
2. The second paragraph of Article 22 of the Protocol on the Privileges and Immunities shall apply in respect of the ECB, the members of its organs, its staff, the representatives of the national central banks in the ESCB who take part in the activities of the ECB, and any property, assets and operations of the ECB in the United Kingdom held, managed or conducted pursuant to Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank.

<sup>(131)</sup> Staff Regulations of Officials of the European Union as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

3. Paragraph 2 shall apply in respect of:
- (a) such property and assets of the ECB that are held in the United Kingdom at the end of the transition period; and
  - (b) such operations of the ECB in the United Kingdom or with United Kingdom counterparts, and ancillary activities related thereto, that were ongoing at the end of the transition period, or that are initiated after the end of the transition period as part of its activities to sustain operations that were ongoing at the end of the transition period, until their final maturity, disposal or completion.

#### *Article 118*

### **European Investment Bank**

1. This Title shall apply in respect of the European Investment Bank ('EIB'), the members of its organs, its staff and the representatives of the Member States who take part in its activities, as well as to any subsidiaries or any other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund.

2. The second paragraph of Article 21 of the Protocol on the Privileges and Immunities shall apply in respect of the EIB, the members of its organs, its staff and the representatives of the Member States who take part in its activities, as well as to any subsidiaries or any other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund.

3. Paragraph 2 shall apply in respect of:
- (a) such property and assets of the EIB or of any subsidiaries and other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund, that are held in the United Kingdom at the end of the transition period; and
  - (b) such borrowing, financing, guarantee, investment, treasury and technical assistance operations of the EIB and of any subsidiaries and other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund, in the United Kingdom or with United Kingdom counterparts, and ancillary activities related thereto, that were ongoing at the end of the transition period or that are initiated after the end of the transition period, as part of their activities to sustain operations that were ongoing at the end of the transition period until their final maturity, disposal, or completion.

#### *Article 119*

### **Host agreements**

The Headquarters Agreement between the United Kingdom and the European Banking Authority of 8 May 2012, the Exchange of Letters concerning the Application in the United Kingdom of the Protocol on the Privileges and Immunities of the European Communities to the European Agency for the Evaluation of Medicinal Products of 24 June 1996, and the Agreement on the Hosting of the Galileo Security Monitoring Centre of 17 July 2013 shall apply, respectively, to the European Banking Authority, the European Medicines Agency and the Galileo Security Monitoring Centre, until their relocation to a Member State is completed. The date of notification by the Union of the completion date of the relocation shall constitute the termination date of those host agreements.

#### *TITLE XIII*

### ***Other issues relating to the functioning of the institutions, bodies, offices and agencies of the Union***

#### *Article 120*

### **Obligation of professional secrecy**

Article 339 TFEU and other provisions of Union law that impose an obligation of professional secrecy on certain individuals and institutions, bodies, offices and agencies of the Union shall apply in the United Kingdom in respect of any information of the kind covered by obligations of professional secrecy either obtained before the end of the transition period or obtained after the end of the transition period in connection with activities of the Union pursuant to this Agreement. The United Kingdom shall respect such obligations of individuals and institutions, bodies, offices and agencies and shall ensure that they are complied with in its territory.

*Article 121***Obligation of professional discretion**

Article 19 of the Staff Regulations of Officials of the European Union and other provisions of Union law that impose an obligation of professional discretion on certain individuals shall apply in the United Kingdom in respect of any information either obtained before the end of the transition period or obtained after the end of the transition period in connection with activities of the Union pursuant to this Agreement. The United Kingdom shall respect such obligations of individuals and shall ensure that they are complied with in its territory.

*Article 122***Access to documents**

1. For the purposes of the provisions of Union law on access to documents of the institutions, bodies, offices and agencies of the Union, all references to Member States and their authorities shall be understood as including the United Kingdom and its authorities in respect of documents drawn up by or obtained by the institutions, bodies, offices and agencies of the Union:

- (a) before the end of the transition period; or
- (b) after the end of the transition period in connection with activities of the Union pursuant to this Agreement.

2. Article 5 and Article 9(5) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council <sup>(132)</sup> and Article 5 of Decision ECB/2004/3 of the European Central Bank <sup>(133)</sup> shall apply in the United Kingdom in respect of all documents falling within the scope of those provisions obtained by the United Kingdom:

- (a) before the end of the transition period; or
- (b) after the end of the transition period in connection with activities of the Union pursuant to this Agreement.

*Article 123***European Central Bank**

1. Articles 9.1, 17, 35.1, 35.2, and 35.4 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank, shall apply in respect of the ECB, the members of its organs, its staff, the representatives of the national central banks in the ESCB who take part in the activities of the ECB, and any property, assets and operations of the ECB in the United Kingdom held, managed or conducted pursuant to that Protocol. The ECB shall be exempt from requirements to register in the United Kingdom or to obtain any form of licence, permit or other authorisation or permission from the United Kingdom to carry out its operations.

2. Paragraph 1 shall apply in respect of:

- (a) such property and assets of the ECB that are held in the United Kingdom at the end of the transition period; and
- (b) such operations of the ECB in the United Kingdom or with United Kingdom counterparts, and ancillary activities related thereto, that were ongoing at the end of the transition period, or that are initiated after the end of the transition period as part of its activities to sustain operations that were ongoing at the end of the transition period, until their final maturity, disposal or completion.

*Article 124***European Investment Bank**

1. Article 13, Articles 20(2), 23(1), 23(4) and Article 26 and the first paragraph of Article 27 of Protocol (No 5) on the Statute of the European Investment Bank shall apply in respect of the EIB, the members of its organs, its staff and the representatives of the Member States who take part in its activities, as well as to any subsidiaries or any other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of that Protocol, in particular the European Investment Fund. The EIB and the European Investment Fund shall be exempt from requirements to register in the United Kingdom or to obtain any form of licence, permit or other authorisation or

<sup>(132)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(133)</sup> Decision of the European Central Bank of 4 March 2004 on public access to European Central Bank documents (ECB/2004/3) (2004/258/EC) (OJ L 80, 18.3.2004, p. 42).

permission from the United Kingdom to carry out their operations. The currency of the United Kingdom shall remain freely transferable and convertible, subject to Article 23(2) of Protocol (No 5) on the Statute of the European Investment Bank in respect of the convertibility of the currency of the United Kingdom into a currency of a non-Member State, for the purposes of such operations.

2. Paragraph 1 shall apply in respect of:

- (a) such property and assets of the EIB or of any subsidiaries and other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund, that are held in the United Kingdom at the end of the transition period; and
- (b) such borrowing, financing, guarantee, investment, treasury and technical assistance operations of the EIB or of any subsidiaries and other entities established by the EIB before the end of the transition period in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, in particular the European Investment Fund, in the United Kingdom or with United Kingdom counterparts, and ancillary activities related thereto, that were ongoing at the end of the transition period or that are initiated after the end of the transition period, as part of their activities to sustain operations that were ongoing at the end of the transition period until their final maturity, disposal, or completion.

#### *Article 125*

### **European Schools**

1. The United Kingdom shall be bound by the Convention defining the Statute of the European Schools <sup>(134)</sup>, as well as by the Regulations on Accredited European Schools adopted by the Board of Governors of the European Schools, until the end of the school year that is ongoing at the end of the transition period.

2. The United Kingdom shall, with respect to pupils who before 31 August 2021 acquired a European baccalaureate and to pupils who are enrolled in a cycle of secondary studies in a European School before 31 August 2021 and acquire a European baccalaureate after that date, ensure that such pupils enjoy the rights provided for in Article 5(2) of the Convention defining the Statute of the European Schools.

#### PART FOUR

### **TRANSITION**

#### *Article 126*

### **Transition period**

There shall be a transition or implementation period, which shall start on the date of entry into force of this Agreement and end on 31 December 2020.

#### *Article 127*

### **Scope of the transition**

1. Unless otherwise provided in this Agreement, Union law shall be applicable to and in the United Kingdom during the transition period.

However, the following provisions of the Treaties, and acts adopted by the institutions, bodies, offices or agencies of the Union, shall not be applicable to and in the United Kingdom during the transition period:

- (a) provisions of the Treaties and acts which, pursuant to Protocol (No 15) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union or Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, or pursuant to the provisions of the Treaties on enhanced cooperation, were not binding upon and in the United Kingdom before the date of entry into force of this Agreement as well as acts amending such acts;
- (b) Article 11(4) TEU, point (b) of Article 20(2), Article 22 and the first paragraph of Article 24 TFEU, Articles 39 and 40 of the Charter of Fundamental Rights of the European Union, and the acts adopted on the basis of those provisions.

<sup>(134)</sup> OJL 212, 17.8.1994, p. 3.

2. In the event that the Union and the United Kingdom reach an agreement governing their future relationship in the areas of the Common Foreign and Security Policy and the Common Security and Defence Policy which becomes applicable during the transition period, Chapter 2 of Title V of the TEU and the acts adopted on the basis of those provisions shall cease to apply to the United Kingdom from the date of application of that agreement.

3. During the transition period, the Union law applicable pursuant to paragraph 1 shall produce in respect of and in the United Kingdom the same legal effects as those which it produces within the Union and its Member States, and shall be interpreted and applied in accordance with the same methods and general principles as those applicable within the Union.

4. The United Kingdom shall not participate in any enhanced cooperation:

- (a) in relation to which authorisation was granted after the date of entry into force of this Agreement; or
- (b) within the framework of which no acts were adopted before the date of entry into force of this Agreement.

5. During the transition period, in relation to measures which amend, build upon or replace an existing measure adopted pursuant to Title V of Part Three of the TFEU by which the United Kingdom is bound before the date of entry into force of this Agreement, Article 5 of Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union and Article 4a of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice shall continue to apply *mutatis mutandis*. The United Kingdom shall not, however, have the right to notify its wish to take part in the application of new measures pursuant to Title V of Part Three of the TFEU other than those measures referred to in Article 4a of Protocol No 21.

In order to support continuing cooperation between the Union and the United Kingdom, under the conditions set out for cooperation with third countries in the relevant measures, the Union may invite the United Kingdom to cooperate in relation to new measures adopted under Title V of Part III TFEU.

6. Unless otherwise provided in this Agreement, during the transition period, any reference to Member States in the Union law applicable pursuant to paragraph 1, including as implemented and applied by Member States, shall be understood as including the United Kingdom.

7. By way of derogation from paragraph 6:

- (a) for the purposes of Article 42(6) and Article 46 TEU and of Protocol (No 10) on permanent structured cooperation established by Article 42 TEU, any references to Member States shall be understood as not including the United Kingdom. This shall not preclude the possibility for the United Kingdom to be invited to participate as a third country in individual projects under the conditions set out in Council Decision (CFSP) 2017/2315 <sup>(135)</sup> on an exceptional basis, or in any other form of cooperation to the extent allowed and under the conditions set out by future Union acts adopted on the basis of Article 42(6) and Article 46 TEU;
- (b) where acts of the Union provide for the participation of Member States, nationals of Member States or natural or legal persons residing or established in a Member State in an information exchange, procedure or programme which continues to be implemented or which starts after the end of the transition period, and where such participation would grant access to security-related sensitive information that only Member States, nationals of Member States, or natural or legal persons residing or established in a Member State, are to have knowledge of, in such exceptional circumstances the references to Member States in such Union acts shall be understood as not including the United Kingdom. The Union shall notify the United Kingdom of the application of this derogation;
- (c) for the purposes of the recruitment of officials and other servants of the institutions, bodies, offices or agencies of the Union, any references to Member States in Articles 27 and 28(a) of the Staff Regulations and in Article 1 of Annex X thereto and in Articles 12, 82 and 128 of the Conditions of Employment of Other Servants of the European Union, or in the relevant provisions of other staff rules applicable to those institutions, bodies, offices or agencies, shall be understood as not including the United Kingdom.

#### Article 128

### Institutional arrangements

1. Notwithstanding Article 127, during the transition period Article 7 shall apply.

<sup>(135)</sup> Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States (OJ L 331, 14.12.2017, p. 57).

2. For the purposes of the Treaties, during the transition period, the parliament of the United Kingdom shall not be considered to be a national parliament of a Member State, except as regards Article 1 of Protocol (No 1) on the role of national parliaments in the European Union and, in respect of proposals which are in the public domain, Article 2 of that Protocol.

3. During the transition period, provisions of the Treaties which grant institutional rights to Member States enabling them to submit proposals, initiatives or requests to the institutions shall be understood as not including the United Kingdom <sup>(136)</sup>.

4. For the purposes of participation in the institutional arrangements laid down in Articles 282 and 283 TFEU and in Protocol (No 4) on the Statute of the European system of central banks and of the European Central Bank, with the exception of Article 21(2) of that Protocol, during the transition period, the Bank of England shall not be considered to be a national central bank of a Member State.

5. By way of derogation from paragraph 1 of this Article and from Article 7, during the transition period, representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation, exceptionally attend meetings or parts of meetings of the committees referred to in Article 3(2) of Regulation (EU) No 182/2011, meetings or parts of meetings of Commission expert groups, meetings or parts of meetings of other similar entities, and meetings or parts of meetings of bodies, offices or agencies, where and when representatives or experts of the Member States or experts designated by Member States take part, provided that one of the following conditions is fulfilled:

- (a) the discussion concerns individual acts to be addressed during the transition period to the United Kingdom or to natural or legal persons residing or established in the United Kingdom;
- (b) the presence of the United Kingdom is necessary and in the interest of the Union, in particular for the effective implementation of Union law during the transition period.

During such meetings or parts of meetings, the representatives or experts of the United Kingdom or experts designated by the United Kingdom shall have no voting rights and their presence shall be limited to the specific agenda items that fulfil the conditions set out in point (a) or (b).

6. During the transition period, the United Kingdom shall not act as leading authority for risk assessments, examinations, approvals or authorisations at the level of the Union or at the level of Member States acting jointly as referred to in the acts and provisions listed in Annex VII.

7. During the transition period, where draft Union acts identify or refer directly to specific Member State authorities, procedures, or documents, the United Kingdom shall be consulted by the Union on such drafts, with a view to ensuring the proper implementation and application of those acts by and in the United Kingdom.

#### Article 129

#### Specific arrangements relating to the Union's external action

1. Without prejudice to Article 127(2), during the transition period, the United Kingdom shall be bound by the obligations stemming from the international agreements concluded by the Union, by Member States acting on its behalf, or by the Union and its Member States acting jointly, as referred to in point (a)(iv) of Article 2. (\*)

2. During the transition period, representatives of the United Kingdom shall not participate in the work of any bodies set up by international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly, unless:

- (a) the United Kingdom participates in its own right; or
- (b) the Union exceptionally invites the United Kingdom to attend, as part of the Union's delegation, meetings or parts of meetings of such bodies, where the Union considers that the presence of the United Kingdom is necessary and in the interest of the Union, in particular for the effective implementation of those agreements during the transition period; such presence shall only be allowed where Member States participation is permitted under the applicable agreements.

<sup>(136)</sup> This should in particular concern Articles 7, 30, 42(4), 48(2) to (6) and 49 TEU and Articles 25, 76(b), 82(3), 83(3), 86(1), 87(3), 135, 218(8), 223(1), 262, 311 and 341 TFEU.

(\*) The Union will notify the other parties to these agreements that during the transition period the United Kingdom is to be treated as a Member State for the purposes of these agreements.

3. In accordance with the principle of sincere cooperation, the United Kingdom shall refrain, during the transition period, from any action or initiative which is likely to be prejudicial to the Union's interests, in particular in the framework of any international organisation, agency, conference or forum of which the United Kingdom is a party in its own right.
4. Notwithstanding paragraph 3, 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.
5. Without prejudice to Article 127(2), whenever there is a need for coordination, the United Kingdom may be consulted, on a case-by-case basis.
6. Following a decision of the Council falling under Chapter 2 of Title V TEU, the United Kingdom may make a formal declaration to the High Representative of the Union for Foreign Affairs and Security Policy, indicating that, for vital and stated reasons of national policy, in those exceptional cases it will not apply the decision. In a spirit of mutual solidarity, the United Kingdom shall refrain from any action likely to conflict with or impede Union action based on that decision, and the Member States shall respect the position of the United Kingdom.
7. During the transition period, the United Kingdom shall not provide commanders of civilian operations, heads of mission, operation commanders or force commanders for missions or operations conducted under Articles 42, 43 and 44 TEU, nor shall it provide the operational headquarters for such missions or operations, or serve as framework nation for Union battlegroups. During the transition period, the United Kingdom shall not provide the head of any operational actions under Article 28 TEU.

#### *Article 130*

##### **Specific arrangements relating to fishing opportunities**

1. As regards the fixing of fishing opportunities within the meaning of Article 43(3) TFEU for any period falling within the transition period, the United Kingdom shall be consulted in respect of the fishing opportunities related to the United Kingdom, including in the context of the preparation of relevant international consultations and negotiations.
2. For the purposes of paragraph 1, the Union shall offer the opportunity to the United Kingdom to provide comments on the Annual Communication from the European Commission on fishing opportunities, the scientific advice from the relevant scientific bodies and the proposals from the European Commission for fishing opportunities for any period falling within the transition period.
3. Notwithstanding point (b) of Article 129(2), with a view to allowing the United Kingdom to prepare its future membership in relevant international fora, the Union may exceptionally invite the United Kingdom to attend, as part of the Union's delegation, international consultations and negotiations referred to in paragraph 1 of this Article, to the extent allowed for Member States and permitted by the specific forum.
4. Without prejudice to Article 127(1), the relative stability keys for the allocation of fishing opportunities referred to in paragraph 1 of this Article shall be maintained.

#### *Article 131*

##### **Supervision and enforcement**

During the transition period, the institutions, bodies, offices and agencies of the Union shall have the powers conferred upon them by Union law in relation to the United Kingdom and to natural and legal persons residing or established in the United Kingdom. In particular, the Court of Justice of the European Union shall have jurisdiction as provided for in the Treaties.

The first paragraph shall also apply during the transition period as regards the interpretation and application of this Agreement.

#### *Article 132*

##### **Extension of the transition period**

1. Notwithstanding Article 126, the Joint Committee may, before 1 July 2020, adopt a single decision extending the transition period for up to 1 or 2 years. (\*)

(\*) In case of extension, the Union will notify other parties to international agreements thereof.



2. In the event that the Joint Committee adopts a decision under paragraph 1, the following shall apply:
- (a) by way of derogation from Article 127(6), the United Kingdom shall be considered as a third country for the purposes of the implementation of the Union programmes and activities committed under the multiannual financial framework applying as from the year 2021;
  - (b) by way of derogation from Article 127(1) and without prejudice to Part Five of this Agreement, the applicable Union law concerning the Union's own resources relating to the financial years covered by the extension of the transition period shall not apply to the United Kingdom after 31 December 2020;
  - (c) by way of derogation from Article 127(1) of this Agreement, Articles 107, 108 and 109 TFEU shall not apply to measures of the United Kingdom authorities, including on rural development, supporting the production of and trade in agricultural products in the United Kingdom up to an annual level of support which shall not be more than the total amount of expenditure incurred in the United Kingdom under the Common Agricultural Policy in 2019, and provided that a minimum percentage of that exempted support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture. Such minimum percentage shall be determined on the basis of the last available percentage by which the overall expenditure under the Common Agricultural Policy in the Union complied with the provisions of Annex 2 to the WTO Agreement on Agriculture. In the event that the period by which the transition period is extended is not a multiple of 12 months, the maximum annual level of exempted support in the year for which the extended transition period covers less than 12 months shall be reduced pro rata;
  - (d) for the period from 1 January 2021 to the end of the transition period, the United Kingdom shall make a contribution to the Union budget, as determined in accordance with paragraph 3;
  - (e) subject to point (d) of paragraph 3, Part Five of this Agreement shall not be affected.
3. A decision of the Joint Committee under paragraph 1 shall:
- (a) establish the appropriate amount of the contribution of the United Kingdom to the Union budget for the period from 1 January 2021 to the end of the transition period, taking into account the status of the United Kingdom during that period, as well as the modalities of payment of that amount;
  - (b) specify the maximum level of exempted support, as well as the minimum percentage thereof that shall comply with the provisions of Annex 2 to the WTO Agreement on Agriculture, as referred to in point (c) of paragraph 2;
  - (c) lay down any other measure necessary for the implementation of paragraph 2;
  - (d) adapt the dates or periods referred to in Articles 51, 62, 63, 84, 96, 125, 141, 156, 157 and Annexes IV and V to reflect the extension of the transition period.

#### PART FIVE

### FINANCIAL PROVISIONS

#### CHAPTER 1

#### **General provisions**

#### *Article 133*

#### **Currency to be used between the Union and the United Kingdom**

Without prejudice to the applicable Union law concerning the Union's own resources, all amounts, liabilities, calculations, accounts and payments referred to in this Part shall be drawn up and implemented in euro.

#### *Article 134*

#### **Facility offered to auditors in relation to the financial provisions**

The United Kingdom shall inform the Union about the entities it has entrusted to carry out its audit of the implementation of the financial provisions covered by this Part.

On the United Kingdom's request, the Union shall provide those entrusted entities with any information that may reasonably be requested as regards the United Kingdom's rights and obligations under this Part and shall provide them with adequate assistance to allow them to accomplish their task. In providing information and assistance under this Article, the Union shall act in accordance with applicable Union law, in particular with Union rules on data protection.

The authorities of the United Kingdom and of the Union may agree on appropriate administrative arrangements to facilitate the application of the first and second paragraphs.

## CHAPTER 2

**The United Kingdom's contribution to and participation in the Union budget**

## Article 135

**The United Kingdom's contribution to and participation in the implementation of the Union budgets for the years 2019 and 2020**

1. For the years 2019 and 2020, in accordance with Part Four, the United Kingdom shall contribute to and participate in the implementation of the Union budgets.

2. By way of derogation from Part Four, amendments to Council Regulation (EU, Euratom) No 1311/2013<sup>(137)</sup> or Decision 2014/335/EU, Euratom that are adopted on or after the date of entry into force of this Agreement shall not apply to the United Kingdom insofar as those amendments have an impact on the United Kingdom's financial obligations.

## Article 136

**Provisions applicable after 31 December 2020 in relation to own resources**

1. The applicable Union law concerning the Union's own resources relating to financial years until 2020 shall continue to apply to the United Kingdom after 31 December 2020, including where the own resources concerned are to be made available, corrected or subject to adjustments after that date.

2. Without prejudice to Article 135(2), the Union law referred to in paragraph 1 of this Article shall include in particular the following acts and provisions, including any amendment thereto, irrespective of the date of adoption, entry into force or application of the amendment:

- (a) Decision 2014/335/EU, Euratom;
- (b) Regulation (EU, Euratom) No 609/2014, and in particular Article 12 thereof in relation to the interest on amounts made available belatedly and Article 11 thereof in relation to the handling of the opt-out;
- (c) Regulation (EU, Euratom) No 608/2014 and in particular Article 1 thereof in relation to the calculation of the balance and Articles 2 to 8 thereof in relation to the implementing measures for the system of own resources;
- (d) Council Regulation (EEC, Euratom) No 1553/89<sup>(138)</sup>;
- (e) Council Regulation (EC, Euratom) No 1287/2003<sup>(139)</sup>;
- (f) Commission Implementing Decision (EU, Euratom) 2018/195<sup>(140)</sup>;
- (g) Commission Implementing Decision (EU, Euratom) 2018/194<sup>(141)</sup>;
- (h) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>(142)</sup> (the 'Financial Regulation');
- (i) Article 287 TFEU on the role of the Court of Auditors as well as other rules concerning that institution;

<sup>(137)</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

<sup>(138)</sup> Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

<sup>(139)</sup> Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).

<sup>(140)</sup> Commission Implementing Decision (EU, Euratom) 2018/195 of 8 February 2018 establishing forms for reporting on fraud and irregularities affecting entitlements to traditional own resources and on inspections relating to traditional own resources pursuant to Council Regulation (EU, Euratom) No 608/2014 (OJ L 36, 9.2.2018, p. 33).

<sup>(141)</sup> Commission Implementing Decision (EU, Euratom) 2018/194 of 8 February 2018 establishing models for statements of accounts for entitlements to own resources and a form for reports on irrecoverable amounts corresponding to the entitlements to own resources pursuant to Council Regulation (EU, Euratom) No 609/2014 (OJ L 36, 9.2.2018, p. 20).

<sup>(142)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (j) Article 325 TFEU on combatting fraud and related acts, in particular Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(143)</sup> and Council Regulation (EC, Euratom) No 2988/95 <sup>(144)</sup>;
- (k) the annual budgets for the financial years until 2020 or, in the event that the annual budget has not been adopted, the rules applicable in accordance with Article 315 TFEU.
3. By way of derogation from paragraphs 1 and 2, the following rules shall apply to the United Kingdom after 31 December 2020:
- (a) any amounts resulting, in respect of the United Kingdom, from adjustments to own resources entered into the budget and from adjustments related to the surplus or deficit, in relation to the financing of the Union budgets until 2020 in accordance with the Union law referred to in paragraphs 1 and 2, shall be due by or to the United Kingdom;
- (b) if, in accordance with the applicable Union law concerning the Union's own resources, the date on which the own resources are to be made available is after 28 February 2021, the payment shall be made on the earliest date referred to in Article 148(1) following the date on which the own resources are to be made available;
- (c) for the purpose of payment by the United Kingdom of traditional own resources after 28 February 2021, the amount of entitlements established in accordance with Article 2 of Regulation (EU, Euratom) No 609/2014 after the reduction of the collection costs in accordance with Articles 2(3) and 10(3) of Decision 2014/335/EU, Euratom shall be reduced by the United Kingdom's share of this amount;
- (d) by way of derogation from Article 7 of this Agreement, the representatives or experts of the United Kingdom, or experts designated by the United Kingdom may, upon invitation, exceptionally attend, without voting rights, the meetings of any committee established by the applicable Union law referred to in paragraphs 1 and 2 of this Article, such as the meetings of the Advisory Committee on Own Resources established by Article 7 of Regulation (EU, Euratom) No 608/2014 or the GNI Committee established by Article 4 of Regulation (EC, Euratom) No 1287/2003, to the extent that the work of such committees concerns the financial years until 2020;
- (e) any correction or adjustment to the own resources based on VAT and gross national income shall only be made if the relevant measures pursuant to the provisions referred to in paragraphs 1 and 2 are decided upon no later than 31 December 2028;
- (f) the separate account for traditional own resources referred to in the second subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014 shall be fully liquidated by 31 December 2025. Prior to 20 February 2026, a share of the amounts still in that account on 31 December 2025 and not being subject to European Commission inspection findings communicated prior to that date under the own resources legislation shall be made available to the Union budget corresponding to the share of the amounts made available to the Union on the amounts reported by the United Kingdom to the European Commission in the framework of the procedure laid down in Article 13 of Regulation (EU, Euratom) No 609/2014 during the period between 1 January 2014 and 31 December 2020.

#### *Article 137*

#### **The United Kingdom's participation in the implementation of the Union programmes and activities in 2019 and 2020**

1. In accordance with Part Four, the Union programmes and activities committed under the multiannual financial framework for the years 2014-2020 ('MFF 2014-2020') or previous financial perspectives shall be implemented in 2019 and 2020 with regard to the United Kingdom on the basis of the applicable Union law.

Regulation (EU) No 1307/2013 of the European Parliament and of the Council <sup>(145)</sup> as applicable in the year 2020 shall not apply in the United Kingdom for claim year 2020. However, Article 13 of that Regulation shall apply in respect of the United Kingdom direct payments scheme for claim year 2020, provided that such scheme is equivalent to the scheme of Regulation (EU) No 1307/2013, as applicable in the year 2020.

<sup>(143)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>(144)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>(145)</sup> Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

2. By way of derogation from Part Four, the United Kingdom and projects located in the United Kingdom shall only be eligible for financial operations carried out within financial instruments managed directly or indirectly under Title X of the Financial Regulation or financial operations guaranteed by the Union budget under the European Fund for Strategic Investments (EFSI) established by Regulation (EU) 2015/1017 of the European Parliament and of the Council <sup>(146)</sup> and the European Fund for Sustainable Development (EFSD) established by Regulation (EU) 2017/1601 of the European Parliament and of the Council <sup>(147)</sup>, provided that those financial operations were approved by the entities and bodies, including the EIB and the European Investment Fund ('EIF'), or by persons entrusted with the implementation of part of those actions before the date of entry into force of this Agreement, even if the signature of those financial operations took place after that date. In relation to those financial operations approved after the date of entry into force of this Agreement, entities established in the United Kingdom shall be treated as entities located outside the Union.

*Article 138*

**Union law applicable after 31 December 2020 in relation to the United Kingdom's participation in the implementation of the Union programmes and activities committed under the MFF 2014-2020 or previous financial perspectives**

1. In respect of the implementation of the Union programmes and activities committed under the MFF 2014-2020 or previous financial perspectives, applicable Union law, including the rules on financial corrections and on clearance of accounts, shall continue to apply to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities.

2. The applicable Union law referred to in paragraph 1 shall include in particular the following provisions, including any amendments to those provisions, irrespective of the date of adoption, entry into force or application of the amendment:

- (a) the Financial Regulation;
- (b) the basic acts, within the meaning of point (4) of Article 2 of the Financial Regulation, establishing Union programmes or activities referred to in the budget remarks concerning titles, chapters, articles or items under which the appropriations have been committed;
- (c) Article 299 TFEU on the enforceability of pecuniary obligations;
- (d) Article 287 TFEU on the role of the Court of Auditors as well as other rules concerning that institution;
- (e) Article 325 TFEU on combatting fraud and related acts, in particular Regulation (EU, Euratom) No 883/2013 and Regulation (EC, Euratom) No 2988/95.

3. By way of derogation from Article 7, the representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation, exceptionally attend, without voting rights, meetings of the committees that assist the European Commission in the implementation and management of the programmes established by Union law referred to in paragraph 1 or established by the European Commission in respect of the implementation of that law, to the extent that their work concerns the financial years until 2020.

4. By way of derogation from Article 8, the United Kingdom shall have access, to the extent strictly necessary for the implementation of the programmes and activities referred to in point (b) of paragraph 2, to the networks, information systems and the databases established under the relevant basic acts or by the related implementation rules derived from those basic acts.

5. On a proposal from the Committee on the financial provisions referred to in point (f) of Article 165(1), the Joint Committee may adopt, in conformity with the rules established in Article 166, technical measures to facilitate the closure of the programmes and activities referred to in paragraph 1 of this Article or to exempt the United Kingdom from obligations to take actions, during or after the closure of those programmes and activities, which are not relevant for a former Member State, provided that such technical measures respect the principle of sound financial management and do not result in an advantage in favour of the United Kingdom or the United Kingdom beneficiaries compared to Member States or third countries participating in the same programmes and activities financed by the Union budget.

<sup>(146)</sup> Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

<sup>(147)</sup> Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund (OJ L 249, 27.9.2017, p. 1).

*Article 139***Share of the United Kingdom**

The United Kingdom's share referred to in points (a) and (c) of Article 136(3), and in Articles 140 to 147 shall be a percentage calculated as the ratio between the own resources made available by the United Kingdom in the years 2014 to 2020 and the own resources made available during that period by all Member States and the United Kingdom as adjusted by the amount communicated to the Member States before 1 February 2022 in accordance with Article 10b(5) of Regulation (EU, Euratom) No 609/2014.

*Article 140***Outstanding commitments**

1. Unless otherwise provided for in this Agreement, the United Kingdom shall be liable to the Union for the United Kingdom's share of the budgetary commitments of the Union budget and the budgets of the Union decentralised agencies outstanding on 31 December 2020 and for the United Kingdom's share of the commitments made in 2021 on the carryover of commitment appropriations from the budget for 2020.

The first subparagraph shall not apply to the following commitments outstanding on 31 December 2020:

- (a) those commitments related to the programmes and bodies to which Article 11 of Regulation (EU, Euratom) No 609/2014 applies with regard to the United Kingdom;
- (b) those commitments financed by assigned revenue in the Union budget.

With regard to the Union's decentralised agencies, the amount of their commitments referred to in the first subparagraph shall only be taken into account in proportion to the share of contributions from the Union budget in their overall revenues for the period 2014-2020.

2. The Union shall calculate the amount of commitments referred to in paragraph 1 on 31 December 2020. It shall communicate that amount to the United Kingdom by 31 March 2021, adding a list with the reference key of each commitment, the associated budget lines, and the amount for each associated budget line.

3. The Union shall, by 31 March of each year, starting in 2022, with regard to the commitments referred to in paragraph 1, communicate to the United Kingdom:

- (a) information on the amount of commitments outstanding on 31 December of the previous year and on the payments and decommitments made in the previous year, including an update of the list referred to in paragraph 2;
- (b) an estimate of the expected payments in the current year based on the level of payment appropriations in the budget;
- (c) an estimate of the expected contribution of the United Kingdom to the payments referred to in point (b); and
- (d) other information, such as a medium term payment forecast.

4. The annual amount payable shall be calculated as the United Kingdom's share of the estimate referred to in point (b) of paragraph 3 adjusted by the difference between the payments made by the United Kingdom in the previous year and the United Kingdom's share of the payments made by the Union in the previous year on the outstanding commitments referred to in paragraph 1, reduced by the amount of net financial corrections in relation to programmes and activities financed under the MFF 2014-2020 or previous financial perspectives and reduced by the proceeds of any infringement procedures concerning the failure of a Member State to make available own resources related to financial years until 2020, provided that those amounts have been received by the budget in the previous year and are definitive. The annual amount payable by the United Kingdom shall not be adjusted in the given year.

In 2021, the annual amount payable by the United Kingdom shall be reduced by the United Kingdom's share in the financing of the budget for 2020 of the amount of payment appropriations carried over from 2020 to 2021 in accordance with Articles 12 and 13 of the Financial Regulation and by the United Kingdom's share of the total amount of traditional own resources made available to the Union in January and February 2021 in respect of which the Union's entitlements were established in accordance with Article 2 of Regulation (EU, Euratom) No 609/2014 in November and December 2020. The Union shall also reimburse to the United Kingdom the United Kingdom's share of the total amount of traditional own resources made available by the Member States after 31 December 2020 for goods released for free circulation in respect of ending or discharge of temporary storage or customs procedures referred to in Article 49(2) started before or on this date.

5. At the request of the United Kingdom, made at the earliest after 31 December 2028, the Union shall make an estimate of the remaining amounts to be paid by the United Kingdom under this Article, on the basis of a rule taking into account the amount of outstanding commitments at the end of the year and an estimate of any decommitments on those outstanding commitments, any financial corrections and any proceeds from the infringement procedures after the end of the year. After the confirmation by the United Kingdom of the acceptance of the proposal to the Committee on the financial provisions referred to in point (f) of Article 165(1) and the Joint Committee, the United Kingdom shall pay the estimated amount, as adjusted in accordance with paragraph 4 of this Article, in relation to the payments made by the United Kingdom in the previous year. The payment of the amounts referred to in this paragraph shall extinguish the remaining obligations of the United Kingdom or the Union under this Article.

#### Article 141

### Fines decided upon before or on 31 December 2020

1. In respect of a fine decided upon by the Union before or on 31 December 2020 that has become definitive and that does not constitute assigned revenue, the Union shall reimburse the United Kingdom for its share of the amount of the fine collected by the Union, unless that amount has already been recorded as budget revenue in the Union budget before or on 31 December 2020.

2. In respect of a fine decided upon by the Union after 31 December 2020 in a procedure referred to in Article 92(1), the Union shall reimburse the United Kingdom for its share of the amount of the fine collected by the Union once that fine has become definitive.

#### Article 142

### Union liabilities at the end of 2020

1. The United Kingdom shall be liable to the Union for its share of the financing of the Union's liabilities incurred until 31 December 2020, with the exception of the following:

- (a) liabilities with corresponding assets, including: Union financial assistance loan assets and the associated balance sheet liabilities, assets corresponding to property, plant and equipment and provisions related to the Joint Research Centre's nuclear sites dismantlement, and all lease-related obligations, intangible assets and inventories, any assets and liabilities relating to the management of foreign currency risk, accrued and deferred income and all provisions other than in respect of fines, legal proceedings and financial guarantee liabilities; and
- (b) liabilities and assets which are related to the operation of the budget and the management of own resources, including outstanding pre-financing advances, receivables, cash, payables, and accrued charges, including those related to the European Agricultural Guarantee Fund or already included in the outstanding commitments (RAL).

2. In particular, the United Kingdom shall be liable for its share of the Union's liability for pension rights and rights to other employment-related benefits accrued on or before 31 December 2020. Payments related to this liability shall be made in accordance with paragraphs 5 and 6.

3. The Union shall communicate to the United Kingdom by 31 March of each year, starting in 2022, the payments made during the previous year corresponding to the liabilities outstanding at 31 December 2020 and the amount of the contribution of the United Kingdom to those payments.

4. By 31 March of each year, starting in 2022, the Union shall communicate to the United Kingdom a specific document on pensions relating to the situation at 31 December of the preceding year in respect of the liability referred to in paragraph 2, which shall provide:

- (a) the remaining amounts still to be paid in relation to the liabilities described in paragraph 5;
- (b) the calculations made and the data and assumptions used to determine the amount that the United Kingdom is to pay, by 30 June of the current year, in relation to staff pension payments and the Union budget contributions to the Joint Sickness Insurance Scheme (JSIS) made in the preceding year in accordance with paragraph 6 and an estimate of those amounts for the current year;
- (c) concerning the population at 31 December 2020, information on the numbers of actual beneficiaries and estimated future beneficiaries of the staff pension and sickness insurance schemes at the end of the previous year and their accumulated post-employment rights at that time; and

- (d) the outstanding United Kingdom liabilities calculated using actuarial valuations made in accordance with the relevant International Public Sector Accounting Standards and an explanation of the evolution of this liability compared to the previous year.

That document may be updated by 30 September of the same year to reflect the definitive figures for the preceding year.

5. With respect to the United Kingdom's liability for the pension rights and rights to other employment-related benefits referred to in paragraph 2 as regards pensions of the Members and EU high-level public office holders covered by Council Regulation No 422/67/EEC, 5/67/Euratom<sup>(148)</sup>, Decision 2005/684/EC, Euratom of the European Parliament<sup>(149)</sup> and Council Regulation (EU) 2016/300<sup>(150)</sup>, the United Kingdom shall contribute to the liabilities as they are recorded in the consolidated accounts of the Union for the financial year 2020 in 10 instalments starting on 31 October 2021.

6. With respect to the United Kingdom's liability for the pension rights and rights to other employment-related benefits referred to in paragraph 2 as regards pensions of officials of the Union established in accordance with Articles 77 to 84 of the Staff Regulations of Officials of the European Union and as regards the pensions of temporary staff, contract staff and parliamentary assistants established in accordance with Articles 33 to 40, Articles 101 to 114 and Article 135, respectively, of the Conditions of Employment of Other Servants of the European Union, the United Kingdom shall contribute annually to the net payments made from the Union budget to each beneficiary and to the related contribution of the Union budget to the JSIS for each beneficiary or person who benefits through a beneficiary. The payments of that contribution shall start on 30 June 2022.

For the pensions referred to in the first subparagraph, the payment by the United Kingdom shall be the sum of the net payments made by the Union budget in the preceding year for each beneficiary, multiplied by the United Kingdom's share and by a percentage that is specific to each beneficiary ('specific percentage'). The specific percentage shall be as follows:

- (a) for a beneficiary receiving pension on 1 January 2021, the specific percentage shall be 100 %;
- (b) for any other beneficiary of a pension, the specific percentage shall be calculated as the ratio between the pension rights acquired in accordance with the Staff Regulations of Officials of the European Union and in particular in Annex VIII thereto on or before 31 December 2020, including pension rights transferred in at that date, and the acquired pension rights at the date of retirement or death if earlier, or at the date the person leaves the scheme;
- (c) for the purposes of the contribution of the budget to the JSIS, the specific percentage shall be calculated as the ratio between the number of years during which the beneficiary contributed to the pension scheme until 31 December 2020 and the total number of years at retirement during which the beneficiary, or the person covered by the Staff Regulations of Officials of the European Union who is the basis for the rights under the JSIS, contributed to the pension scheme.

For a beneficiary of a survivor's pension or an orphan's pension established in accordance with the Staff Regulations of Officials of the European Union, the calculation shall be made on the basis of the career of the person covered by those Staff Regulations which is the basis for the survivor's pension or the orphan's pension.

As long as the liability in relation to this paragraph is not extinguished, in any given year ('year N') the United Kingdom may send the Union before 1 March of year N a request to pay the outstanding liability at 31 December of year N. The Union shall establish the amount of the outstanding liability in relation to the pension and JSIS post-employment benefits, using the same methodology as used in point (d) of paragraph 4. If the United Kingdom agrees, it shall pay that amount in five instalments, with the first payment taking place in the year N+1. The United Kingdom shall also cover its liability for the year N through the procedure set out in this paragraph. After that payment has been completed, and provided that the payments referred to in paragraph 5 have been completed, the remaining obligations under this Article shall be extinguished. The Committee on the financial provisions referred to in point (f) of Article 165(1) and the Joint Committee shall be informed of this situation.

<sup>(148)</sup> Regulation No 422/67/EEC, 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice (OJ L 87, 8.8.1967, p. 1).

<sup>(149)</sup> Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ L 262, 7.10.2005, p. 1).

<sup>(150)</sup> Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p. 1).

## Article 143

**Contingent financial liabilities related to loans for financial assistance, EFSI, EFSF and the external lending mandate.**

1. The United Kingdom shall be liable to the Union for its share of the contingent financial liabilities of the Union arising from financial operations that were:

- (a) decided upon by the European Parliament and the Council or by the European Commission before the date of entry in force of this Agreement, where such financial operations relate to loans for financial assistance decided in accordance with Council Regulation (EU) No 407/2010 <sup>(151)</sup>, Council Regulation (EC) No 332/2002 <sup>(152)</sup>, or the decisions of the European Parliament and the Council providing macro-financial assistance to various countries on the basis of a provisioning in accordance with Council Regulation (EC, Euratom) No 480/2009 <sup>(153)</sup> or Council Regulation (EC, Euratom) No 2728/94 <sup>(154)</sup>;
- (b) approved before the date of entry into force of this Agreement by the bodies, entities or persons that are directly entrusted with the implementation of financial operations in relation to budgetary guarantees that either were given in favour of the EIB through the EFSI in accordance with Regulation (EU) 2015/1017 or through the external lending mandate in accordance with Regulation (EC, Euratom) No 480/2009 or Regulation (EC, Euratom) No 2728/94 and Decision No 466/2014/EU of the European Parliament and of the Council <sup>(155)</sup> or Decision No 1080/2011/EU of the European Parliament and of the Council <sup>(156)</sup>, or were given in favour of eligible counterparts (EFSF).

On 31 July 2019, the Union shall provide the United Kingdom with a specific report concerning those financial operations, providing, for each type of instrument, information on:

- (a) the financial liabilities arising from those financial operations on the date of entry into force of this Agreement;
- (b) where applicable, the provisions held on the date of entry into force of this Agreement in the respective guarantee funds or fiduciary accounts to cover the financial liabilities referred to in point (a) and the respective provisions committed and not yet paid.

In the consolidated accounts of the Union relating to the years 2019 and 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 2019 and 2020, respectively, 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.

The liability of the United Kingdom to the Union in relation to the financial operations referred to in this paragraph shall not be affected by any restructuring of those financial operations. In particular, the financial exposure of the United Kingdom shall not increase, in nominal terms, in comparison with the situation immediately prior to the restructuring.

2. For the financial operations referred to in paragraph 1, the Union shall be liable to the United Kingdom for its share of:

- (a) any amounts recovered by the Union from defaulting debtors or related to undue payments; and
- (b) any net revenue resulting from the difference between financial and operational revenues and financial and operational expenses, entered as revenue, general or assigned, in the Union budget.

<sup>(151)</sup> Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

<sup>(152)</sup> Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

<sup>(153)</sup> Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

<sup>(154)</sup> Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions (OJ L 293, 12.11.1994, p. 1).

<sup>(155)</sup> Decision No 466/2014/EU of the European Parliament and the Council of 16 April 2014 granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (OJ L 135, 8.5.2014, p. 1).

<sup>(156)</sup> Decision No 1080/2011/EU of the European Parliament and of the Council of 25 October 2011 granting an EU guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Union and repealing Decision No 633/2009/EC (OJ L 280, 27.10.2011, p. 1).



For revenue of the asset management of the provisioning of instruments having a provisioning, the Union shall calculate a percentage of revenue as the ratio between the net revenue of the asset management of the previous year and the total provisioning existing at the end of the previous year. The amount of the liability toward the United Kingdom for revenue of the asset management of the provisioning shall be the amount obtained by multiplying the United Kingdom's current provisioning as referred to in paragraph 5 by that percentage of revenue.

3. By 31 March 2021, for each instrument referred to in paragraph 1 that provides for provisioning from the Union's budget, the Union shall communicate to the United Kingdom:

- (a) its initial provisioning, calculated as the United Kingdom's share of the sum of:
  - (i) the provisions made in the corresponding guarantee fund by 31 December 2020;
  - (ii) the amount of provisions committed and not yet paid by 31 December 2020; and
  - (iii) the payments made from the date of entry into force of this Agreement until 31 December 2020 related to financial operations decided upon on or after the date of entry into force of this Agreement; and
- (b) its default provisioning rate, calculated as the ratio between the United Kingdom's initial provisioning for that instrument and the amount of the financial operations referred to in paragraph 1 as at 31 December 2020 decided upon before the date of entry into force of this Agreement.

4. On 31 March of each year, starting in 2021, until the amortisation, expiry or termination of the financial operations referred to in paragraph 1, the Union shall communicate to the United Kingdom information concerning those financial operations. The information shall contain, for each type of instrument:

- (a) the contingent liabilities outstanding at 31 December of the preceding year;
- (b) the payments made in the preceding year by the Union in relation to those financial operations and the amounts of such payments that have accumulated after 31 December 2020;
- (c) the United Kingdom's current provisioning and its current provisioning rate as set out in paragraph 5;
- (d) the reimbursements made to the United Kingdom in the preceding year in accordance with point (a) of paragraph 6 and the amounts of such reimbursements that have accumulated after 31 December 2020;
- (e) the amounts recovered and the net revenues entered in the Union budget as referred to in paragraph 2 for the preceding year;
- (f) if necessary, other useful information concerning the financial operations in the preceding year.

5. By 31 March of each year, for each instrument referred to in paragraph 1, where the basic act establishes provisioning from the Union budget, the Union shall:

- (a) calculate the United Kingdom's current provisioning, defined as the amount of the United Kingdom's initial provisioning reduced by:
  - (i) the United Kingdom's share of the accumulated payments referred to in point (b) of paragraph 4 made from the Union budget after 31 December 2020 in relation to financial operations decided upon before the date of entry into force of this Agreement;
  - (ii) the United Kingdom's share of the amount of decommitments made in the previous years on the outstanding commitments referred to in point (a)(ii) of paragraph 3 of this Article, as communicated pursuant to Article 140(3);
  - (iii) the accumulated level of reimbursements made to the United Kingdom as of 1 January 2021, as referred to in point (d) of paragraph 4;
- (b) communicate to the United Kingdom the current provisioning rate defined as the ratio between the United Kingdom's current provisioning and the amount of financial operations referred to in point (a) of paragraph 4.

6. Every year from 2022 onwards:

- (a) if the United Kingdom's current provisioning rate for an instrument exceeds its default provisioning rate for that instrument, the Union shall be liable to the United Kingdom for that instrument for the amount obtained by multiplying the amount of the financial liabilities referred to in point (a) of paragraph 4 by the difference between the current provisioning rate and the default provisioning rate. The Union's liability shall not exceed the United Kingdom's current provisioning as calculated in paragraph 5;

(b) if, in a given year, the United Kingdom's current provisioning rate for an instrument becomes negative, the United Kingdom shall be liable to the Union for that instrument for the amount of the negative current provisioning. In the following years, the United Kingdom shall be liable to the Union for that instrument for its share of the payments made as communicated in accordance with point (b) of paragraph 4 of this Article and the United Kingdom's share of the amount of decommitments made in the previous year on the outstanding commitments referred to in point (a)(ii) of paragraph 3 of this Article, as communicated pursuant to Article 140(3).

7. If the United Kingdom's current provisioning is positive once the Union's financial operations related to an instrument referred to in paragraph 1 are extinguished, the Union shall be liable to the United Kingdom for the amount of the United Kingdom's current provisioning as calculated in accordance with paragraph 5.

8. After 31 December 2020, if payments are made from the Union budget for the financial operations referred to in paragraph 1 in relation to an instrument for which the basic act does not establish provisioning, the United Kingdom shall be liable to the Union for that instrument for its share of the payments made as communicated in accordance with point (b) of paragraph 4.

9. For the purposes of this Article, where financial liabilities, payments, recoveries or other amounts relate to financial operations referred to in paragraph 1 but it cannot be directly determined whether they arise from a particular financial operation as a result of the application of risk mutualisation or subordination mechanisms, the relevant financial liabilities, payments, recoveries or other amounts that are required to be determined for the application of this Article shall be calculated on a pro-rata basis based on the ratio between the amount of financial operations decided upon or approved before the date of entry into force of this Agreement on 31 December of the year before the calculation is made and the total amount of financial operations on the latter date.

10. Where financial operations as referred to in paragraph 1 are non-amortising, such financial operations shall be considered after 10 years as amortising in proportion to the amortisation of the remaining amortising operations.

#### Article 144

##### **Financial instruments under direct or indirect implementation financed by the programmes of the MFF 2014-2020 or under earlier financial perspectives**

1. From the date of entry into force of this Agreement until the full amortisation of the financial operations referred to in point (a) of this subparagraph, the Union shall identify the financial operations that:

(a) before the date of entry into force of this Agreement, have been decided upon by the European Commission and, where necessary, approved by the financial institutions which have been entrusted by the European Commission with the implementation of a financial instrument under a programme of the MFF 2014-2020 or under earlier financial perspectives under direct or indirect implementation; and

(b) have been decided upon and, where necessary, approved on or after the date of entry into force of this Agreement.

On 31 July 2019, in the report referred to in the second subparagraph of Article 143(1), the Union shall provide the following information concerning the financial instruments, under direct or indirect implementation, financed by the programmes of the MFF 2014-2020 or financed under earlier financial perspectives:

(a) the financial liabilities arising from the operations decided upon before the date of entry into force of this Agreement by the European Commission or the entity entrusted by the European Commission with the implementation of the financial instrument; and

(b) the payments made by the European Commission for the financial instruments and the amounts committed for the financial instruments that have not yet been paid at that date.

The liability of the Union to the United Kingdom in relation to the financial operations referred to in this paragraph shall not be affected by a restructuring of those financial operations, to the extent that such restructuring does not increase the financial exposure to the counterparty, in nominal terms, as it stood immediately prior to the restructuring.

2. On 31 March of each year, starting in 2021, until their amortisation, expiry or termination, for each financial instrument referred to in paragraph 1, the Union shall communicate to the United Kingdom the available information regarding the financial operations referred to in paragraph 1 that have been decided upon or approved before the date of entry into force of this Agreement and those that have been decided upon or approved on or after that date. For each instrument, the information shall contain:

- (a) the financial liabilities as at 31 December of the preceding year arising from the financial operations decided upon by the European Commission, or approved by the entity entrusted by the European Commission with the implementation of the financial instrument, before the date of entry into force of this Agreement;
- (b) the total financial liabilities as at 31 December of the preceding year arising from the financial operations decided upon by the European Commission, or by the entity entrusted by the European Commission with the implementation of the instrument;
- (c) the ratio between the amounts referred to in points (a) and (b);
- (d) the payments made from the provisioning fund or from fiduciary accounts with the entrusted entities, where such payments relate to financial operations that were decided upon by the European Commission or were approved by the entity entrusted by the European Commission with the implementation of the financial instrument, after the date of entry into force of this Agreement;
- (e) the part of the amounts paid back to the Union in accordance with Article 209(3) of the Financial Regulation, other than the returns provided for in point (f) of this paragraph, related to financial operations decided upon or approved before the date of entry into force of this Agreement;
- (f) returns on resources of the financial instrument in the provisioning fund or in fiduciary accounts;
- (g) the part of the amount of the provisioning fund or fiduciary accounts which has not been disbursed and which has been recovered by the European Commission;
- (h) if necessary, other useful information concerning the financial operations in the preceding year.

3. The Union shall be liable to the United Kingdom for the United Kingdom's share of any amount referred in points (d) to (g) of paragraph 2.

4. For the purposes of this Article, where financial liabilities, payments, recoveries or other amounts relate to financial operations referred to in paragraph 1 but cannot be directly determined to arise from a particular financial operation as a result of the application of risk mutualisation or subordination mechanisms, the relevant financial liabilities, payments, recoveries or other amounts required to be determined for the application of this Article shall be calculated on a pro-rata basis, based on the ratio referred to in point (c) of paragraph 2.

#### *Article 145*

### **The European Coal and Steel Community**

The Union shall be liable to the United Kingdom for its share of the net assets of the European Coal and Steel Community in liquidation on 31 December 2020.

The Union shall reimburse the United Kingdom for the relevant amount in five equal annual instalments on 30 June of each year, starting on 30 June 2021.

#### *Article 146*

### **Union investment in the EIF**

The Union shall be liable to the United Kingdom for its share of the Union's investment in the paid-in capital of the EIF on 31 December 2020.

The Union shall reimburse the United Kingdom for the relevant amount in five equal annual instalments on 30 June of each year starting on 30 June 2021.

*Article 147***Contingent liabilities related to legal cases**

1. The United Kingdom shall be liable for its share of the payments required to discharge the contingent liabilities of the Union that become due in relation to legal cases concerning financial interests of the Union related to the budget and, in particular, in relation to Regulation (EC, Euratom) No 2988/95 or in relation to legal cases resulting from the execution of Union programmes and policies, provided that the facts forming the subject matter of those cases occurred no later than 31 December 2020.

The Union shall be liable to the United Kingdom for its share of any amount of subsequent recoveries related to the payments referred to in the first subparagraph.

2. The Union shall communicate to the United Kingdom the amounts referred to in paragraph 1 by 31 March of each year.

*Article 148***Payments after 2020**

1. The reference dates for payments by the United Kingdom to the Union or by the Union to the United Kingdom made after 31 December 2020 shall be 30 June and 31 October of every year for the amounts:

- (a) referred to in Article 49(2), Articles 50 and 53, Article 62(2), point (e) of Article 63(1), and Articles 63(2), 99(3), and 100(2);
- (b) referred to in Article 84(1);
- (c) referred to in points (a), (b), (c), (e) and (f) of Article 136(3), by the next reference date following the date of adjustment or correction;
- (d) resulting from corrective measures to be taken by the United Kingdom with regard to own resources due for financial years until 2020 as a result of controls executed under Regulation (EU, Euratom) No 608/2014 or Regulation (EEC, Euratom) No 1553/89 or for any other reason, by the next reference date following the date of the corrective measure;
- (e) referred to in Article 140(4), in two instalments on the reference dates for payments, the first instalment amounting to half of the second one;
- (f) referred to in Article 140(5), on 30 June following the confirmation by the United Kingdom of the acceptance of the proposal of the Union to the Committee on the financial provisions referred to in point (f) of Article 165(1) and the Joint Committee;
- (g) referred to in Article 141, by the next reference date following the adjustment of the own resources for the Member States resulting from the definitive entry of the fine into the Union budget;
- (h) referred to in Article 142(1), by the next reference date following the date of the communication referred to in paragraph 3;
- (i) referred to in Article 142(5) and the fourth subparagraph of Article 142(6), on 31 October of each year;
- (j) referred to in the first subparagraph of Article 142(6), on 30 June of each year;
- (k) referred to in Articles 143 and 144, by the next reference date following the date of the communication referred in Articles 143(4) and 144(2);
- (l) referred to in Articles 145 and 146;
- (m) referred to in Article 147(2), by the next reference date following the date of the communication referred to therein;
- (n) referred to in paragraph 3 as possible accrued interest.

Payments shall be made in four equal monthly instalments for payments that have a reference date of 30 June and in eight equal monthly instalments for payments that have a reference date of 31 October. All payments shall be made by the last working day of each month, starting on the reference date or, where the reference date is not a working day, the last working day before the reference date.

2. As long as there are still payments to be made by the Union to the United Kingdom or by the United Kingdom to the Union, the Union shall communicate to the United Kingdom on 16 April and on 16 September of each year a document specifying the relevant amounts to be paid, expressed in euro and in British pounds, based on the conversion rate applied by the European Central Bank on the first working day of the month. The Union or the United Kingdom shall pay the net amounts by the dates referred to in paragraph 1.

3. Any delay in payments by the United Kingdom to the Union or by the Union to the United Kingdom shall be subject to the payment of interest in accordance with Article 12 of Regulation (EU, Euratom) No 609/2014.

#### CHAPTER 3

### **European Central Bank**

#### Article 149

### **Reimbursement of the paid-in capital**

The European Central Bank shall, on behalf of the Union, reimburse the Bank of England for the paid-in capital provided by the Bank of England. The date of the reimbursement and other practical arrangements shall be established in accordance with Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank.

#### CHAPTER 4

### **European Investment Bank**

#### Article 150

### **Continued liability of the United Kingdom and reimbursement of the paid-in capital**

1. The United Kingdom shall remain liable, as set out in this Article, for the financial operations approved by the EIB before the date of entry into force of this Agreement, as further specified in paragraph 2 ('EIB financial operations'), even if the resulting financial exposure is assumed on or after the date of entry into force of this Agreement, and shall remain liable for other risks assumed by the EIB as set out in the second subparagraph.

The liability of the United Kingdom shall extend to the EIB financial operations and to asset-liability management risks and operational risks attributable to the EIB financial operations, in accordance with paragraph 6. For other such risks that are not associated with specific financial operations and are not attributable to the stock of financial operations built after the date of entry into force of this Agreement, the amount of the liability of the United Kingdom shall be proportional to the ratio between the remaining exposure due to EIB financial operations and the total amount of financial operations at the time the liability of the United Kingdom is triggered in accordance with paragraph 6.

The implementation of any post-withdrawal growth strategy of the EIB is not covered by the scope of this Article.

2. The EIB financial operations shall include loans, guarantees, fund investments, equity investments, bonds and other loan substitute products, and any other financing operations, with counterparties or regarding projects inside and outside the territory of the Member States, including operations guaranteed by third parties including the Member States or the Union.

The liability of the United Kingdom for EIB financial operations shall apply where the financial exposure of the EIB:

- (a) is based on an approval by the Board of Directors of the EIB given prior to the date of entry into force of this Agreement, or based on a decision adopted on the basis of a delegation by the Board of Directors given prior to the date of entry into force of this Agreement;
- (b) results from the restructuring of an EIB financial operation, to the extent that such restructuring does not increase the financial exposure to the counterparty, in nominal terms, as it stood immediately prior to the restructuring;
- (c) results from a change to an EIB financial operation, where that change was approved by the Board of Directors of the EIB on or after the date of entry into force of this Agreement, to the extent that such change does not increase the financial exposure to the counterparty as it stood immediately prior to the change; or
- (d) results from the institutional participation of the EIB in the capital of the EIF and the European Bank for Reconstruction and Development, as it stood immediately prior to the date of entry into force of this Agreement.

For the purposes of establishing the limits on the liability of the United Kingdom pursuant to paragraphs 3 and 5, the exposure of the EIB on account of EIB financial operations which, due to their nature, are not subject to amortisation, in particular equity-type investments, revolving mandates granted to the EIF, and the participation in the capital of the EIF and the European Bank for Reconstruction and Development, shall be considered to amortise as follows: for a period of 10 years from the entry into force of this Agreement, the amount of the non-amortising exposure under the EIB financial operation shall be considered to remain at the amount as approved by the EIB prior to the entry into force of this Agreement, reduced by any disposal made by the EIB since this date. After this period, the amount shall be treated as decreasing in proportion to the amortisation of the remaining amortising exposure on account of EIB financial operations.

3. For the purposes of paragraph 1, the United Kingdom shall be liable for its share of the uncalled subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement. The United Kingdom shall make payments to the EIB, up to the amount of its liability pursuant to this paragraph, when its liability is triggered in accordance with paragraph 6.

That total liability pursuant to this paragraph shall at no point exceed the amount of the United Kingdom's share of the uncalled subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement.

When the amount of the remaining exposure of the EIB under the EIB financial operations referred to in paragraph 1 is lower than the total amount of subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement, the amount of the liability of the United Kingdom pursuant to this paragraph shall, at any given time, be limited to the amount obtained by applying the ratio of the United Kingdom subscribed capital of the EIB and the total subscribed capital of the EIB as they stood immediately prior to the date of entry into force of this Agreement ('the United Kingdom share of the subscribed capital') to the difference between the amount of that remaining exposure at that time, and the total paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement.

4. The EIB shall pay to the United Kingdom on behalf of the Union an amount equal to the United Kingdom's share of the paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement. That payment shall be made in accordance with Protocol No 5 on the Statute of the European Investment Bank. It shall be made in 12 yearly instalments. The first 11 instalments, each equal to EUR 300 000 000, shall be due on 15 December of each year starting in 2019. The balance of EUR 195 903 950 shall be due on 15 December 2030. The payments made in accordance with this paragraph shall not release the United Kingdom from its liability under paragraph 5.

5. In addition to its liability under paragraph 3, for the purposes of paragraph 1, the United Kingdom shall be liable for its paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement. The United Kingdom shall make payments to the EIB, up to the amount of its liability, in accordance with this paragraph, when its liability is triggered under paragraph 6.

The total liability pursuant to this paragraph shall at no point exceed the amount of the paid-in subscribed capital of the United Kingdom in the EIB as it stood immediately prior to the date of entry into force of this Agreement.

When the remaining exposure of the EIB on account of the EIB financial operations referred to in paragraph 1 is lower than the total paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement, the amount of the liability of the United Kingdom pursuant to this paragraph shall, at any time, be limited to an amount obtained by applying the ratio of the United Kingdom share of the subscribed capital to the amount of that remaining exposure at that time.

6. The liability of the United Kingdom in accordance with this Article shall be triggered, on a *pari-passu* basis with respect to the Member States, in the event that the EIB requires the Member States to make payments on account of their uncalled subscribed capital or when the paid-in subscribed capital of the Member States is used.

When the liability of the United Kingdom pursuant to paragraph 3 is triggered, the United Kingdom shall pay the amount due to the EIB under the same conditions as apply to the Member States (including the timing and the terms of the payment), as decided by the Board of Directors of the EIB at the relevant time. The decision of the EIB requiring the Member States to make payments on account of their uncalled subscribed capital may, in particular, be related to the nature of underlying risk events and the financial position of the EIB in the light of its payment obligations, the state of its assets and liabilities, its standing in capital markets, and the provisions of its contingency and recovery planning as applicable at the relevant time.

When the liability of the United Kingdom pursuant to paragraph 5 is triggered, the United Kingdom shall pay the amount due to the EIB, in euro, within 30 days from the first demand from the EIB, and subject to the fourth subparagraph of this paragraph.

The liability of the United Kingdom triggered in accordance with paragraph 5 shall be fulfilled from the United Kingdom's share of paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement up to the amount not yet paid to the United Kingdom in accordance with paragraph 4. The amount of annual instalments referred to in paragraph 4 shall be reduced accordingly. If the liability of the United Kingdom cannot be fully met in accordance with this method, the United Kingdom shall pay to the EIB the remaining amount due.

The EIB shall, on behalf of the Union, in each case establish the attribution of the events underlying the triggering of the liability of the United Kingdom to the relevant stock of financial operations or risks and the amount which the United Kingdom is obliged to pay to the EIB as follows:

- (a) to the extent that underlying events are attributable to EIB financial operations, or are attributable to associated asset-liability management risk or operational risk, the United Kingdom shall pay to the EIB an amount equal to the United Kingdom share of the subscribed capital of the total sum which the Member States are required to pay, or an amount equal to the United Kingdom share of the subscribed capital of the total sum by which the paid-in subscribed capital of the Member States is used, respectively;
- (b) to the extent that underlying events are attributable to other risks, and are not attributable to any specific financial operation or to the stock of financial operations built after the date of entry into force of this Agreement, the United Kingdom shall pay to the EIB the amount resulting from point (a) multiplied by the ratio of the remaining exposure due to EIB financial operations to the total amount of financial operations at the time the liability of the United Kingdom is triggered.

7. Except for the payments provided for in paragraph 4, the EIB shall not be obliged to make any other payment, return or remuneration on account of the termination of the membership of the United Kingdom of the EIB or on account of the retention by the United Kingdom of a liability in accordance with this Article.

8. On 31 July 2019, the EIB shall communicate to the United Kingdom the United Kingdom's exposure under the EIB financial operations, and the limit on the liability of the United Kingdom in accordance with paragraphs 3 and 5, reflecting the financial situation of the EIB and the liability of the United Kingdom as of the date of entry into force of this Agreement.

On 31 March of every year, starting in 2020, until the extinction of the liability of the United Kingdom in accordance with this Article, the EIB shall communicate to the United Kingdom the remaining exposure of the United Kingdom under the EIB financial operations, and the limit on the liability of the United Kingdom in accordance with paragraphs 3 and 5, reflecting the financial situation of the EIB and the liability of the United Kingdom as at 31 December of the preceding year. The report shall also disclose any material changes which, in the opinion of the EIB, have a material impact on the liability of the United Kingdom. The EIB shall also provide timely information if such changes occur during the year.

The EIB shall provide the United Kingdom with timely information regarding any upcoming triggering of the liability of the United Kingdom pursuant to this Article, in line with the information provided to the Member States. That information shall include information on the nature of the triggering event and the calculation of the amounts to be paid. The United Kingdom shall treat that information as strictly confidential until the EIB lifts the confidentiality or until the liability of the United Kingdom is triggered, whichever occurs first.

#### *Article 151*

#### **Participation of the United Kingdom in EIB group after the withdrawal date**

As from the date of entry into force of this Agreement, neither the United Kingdom nor projects located in the United Kingdom shall be eligible for new financial operations from the EIB group that are reserved for Member States, including those under Union mandates. Entities established in the United Kingdom shall be treated as entities located outside the Union.

The signature of financial operations relating to the United Kingdom, to United Kingdom entities, or to United Kingdom projects approved by the EIB group before the date of entry into force of this Agreement, may take place after that date on the same basis as that on which they were originally approved.

## CHAPTER 5

**European Development Fund and the United Kingdom's guarantee under the EDF Internal Agreements**

## Article 152

**Participation in the European Development Fund**

1. The United Kingdom shall remain party to the European Development Fund ('EDF') until the closure of the 11th EDF and all previous unclosed EDFs, and shall in this respect assume the same obligations as the Member States under the Internal Agreement by which it was set up ('the 11th EDF Internal Agreement')<sup>(157)</sup>, and shall assume the obligations resulting from previous EDFs until their closure, including any such obligations under Council Regulations (EU) 2015/322<sup>(158)</sup> and (EU) 2015/323<sup>(159)</sup>, subject to the conditions laid down in this Agreement. The United Kingdom shall be bound by the decisions of the Council setting out the annual contributions of Member States as adopted under Article 21 of Regulation (EU) 2015/323. United Kingdom beneficiaries shall remain eligible to participate in projects under the 11th EDF and previous EDFs under the same conditions as before the date of entry into force of this Agreement.
2. By way of derogation from Article 7 of this Agreement, the United Kingdom may participate, as an observer without voting rights, in the EDF Committee as established in accordance with Article 8 of the 11th EDF Internal Agreement and in the Investment Facility Committee as established in accordance with Article 9 of the 11th EDF Internal Agreement.
3. The overseas countries and territories referred to in point (e) of Article 3(1) shall benefit from the 11th EDF until its closure and from previous EDFs until their closure.
4. The United Kingdom's share of the Investment Facility of the EDF from successive EDF periods shall be reimbursed to the United Kingdom as the investment matures. The method for making this reimbursement shall be the same as the method set out in Article 144. Unless agreed otherwise, the United Kingdom's capital share shall not be recommitted beyond the end of the 11th EDF commitment period or rolled over into subsequent periods.

## Article 153

**Reuse of the decommitments**

Where the amounts from projects under the 10th EDF or the amounts from previous EDFs have not been committed in accordance with Article 1(3) of the 11th EDF Internal Agreement, or have been decommitted in accordance with Article 1(4) of the 11th EDF Internal Agreement on the date of entry into force of this Agreement, the United Kingdom's share of those amounts shall not be reused.

The first paragraph shall apply to the United Kingdom's share of funds not committed or decommitted under the 11th EDF after 31 December 2020.

## Article 154

**The United Kingdom's guarantee under the successive EDF Internal Agreements**

The United Kingdom shall remain liable in respect of its guarantees under Article 9 of the 4th EDF Internal Agreement<sup>(160)</sup>, Article 8 of the 5th<sup>(161)</sup>, 6th<sup>(162)</sup>, 7th<sup>(163)</sup> and 8th EDF Internal Agreement<sup>(164)</sup>, Article 6 of the 9th EDF Internal Agreement<sup>(165)</sup> and Article 4 of the 10th<sup>(166)</sup> and 11th EDF Internal Agreement.

<sup>(157)</sup> Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1).

<sup>(158)</sup> Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (OJ L 58, 3.3.2015, p. 1).

<sup>(159)</sup> Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund (OJ L 58, 3.3.2015, p. 17).

<sup>(160)</sup> OJ L 25, 30.1.1976, p. 168.

<sup>(161)</sup> OJ L 347, 22.12.1980, p. 210.

<sup>(162)</sup> OJ L 86, 31.3.1986, p. 210.

<sup>(163)</sup> OJ L 229, 17.8.1991, p. 288.

<sup>(164)</sup> OJ L 156, 29.5.1998, p. 108.

<sup>(165)</sup> OJ L 317, 15.12.2000, p. 355.

<sup>(166)</sup> OJ L 247, 9.9.2006, p. 32.



The United Kingdom shall remain entitled to its share of any amounts recovered under the terms of the Member States' guarantees and to the balance of its Member State Call Account. The United Kingdom's share referred to in this subparagraph shall be in proportion to its respective participation in each guarantee agreement.

#### CHAPTER 6

### ***Trust funds and facility for refugees in Turkey***

#### *Article 155*

#### **Commitments toward the Trust Funds and the Facility for Refugees in Turkey**

1. The United Kingdom shall honour the commitments it made before the date of entry into force of this Agreement to the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, established by Commission Decision of 20 October 2015<sup>(167)</sup>, to any future European Union Trust Fund created before the date of entry into force of this Agreement, and to the Facility for Refugees in Turkey, established by Commission decision of 24 November 2015<sup>(168)</sup> and any amendments thereto adopted before the date of entry into force of this Agreement.

2. The United Kingdom may participate in the relevant bodies related to the Facility for Refugees in Turkey, following the rules established for donors in accordance with Article 234(4) of the Financial Regulation.

#### CHAPTER 7

### ***Agencies of the Council and common security and defence policy operations***

#### *Article 156*

#### **The United Kingdom's obligations from the date of entry into force of this Agreement**

Until 31 December 2020, the United Kingdom shall contribute to the financing of the European Defence Agency, the European Union Institute for Security Studies, and the European Union Satellite Centre, as well as to the costs of Common Security and Defence Policy operations, on the basis of the contribution keys set out in point (a) of Article 14(9) of Council Decision (EU) 2016/1353<sup>(169)</sup>, in Article 10(3) of Council Decision 2014/75/CFSP<sup>(170)</sup>, in Article 10(3) of Council Decision 2014/401/CFSP<sup>(171)</sup> and in the second subparagraph of Article 41(2) of the Treaty on European Union, respectively, and in accordance with Article 5 of this Agreement.

#### *Article 157*

#### **The United Kingdom's obligations after 31 December 2020**

1. Based on the accounts of the agencies, to the extent that the relevant liabilities have not been provisioned on 31 December 2020, the United Kingdom shall pay its share of the following liabilities in accordance with its contribution key for each of those agencies on the basis of their audited accounts on 31 December 2020:

- (a) the pension liabilities for the personnel of the European Defence Agency, the European Union Institute for Security Studies, and the European Union Satellite Centre;
- (b) any liabilities arising from the liquidation of the Western European Union.

2. The payment in relation to the liabilities referred to in paragraph 1 shall be made by 30 June 2021.

<sup>(167)</sup> Commission Decision of 20 October 2015 on the establishment of a European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (C(2015) 7293).

<sup>(168)</sup> Commission Decision of 24 November 2015 on the coordination of the actions of the Union and of the Member States through a coordination mechanism — the Refugee Facility for Turkey (OJ C 407, 8.12.2015, p. 8).

<sup>(169)</sup> Council Decision (EU) 2016/1353 of 4 August 2016 concerning the financial rules of the European Defence Agency and repealing Decision 2007/643/CFSP (OJ L 219, 12.8.2016, p. 98).

<sup>(170)</sup> Council Decision 2014/75/CFSP of 10 February 2014 on the European Union Institute for Security Studies (OJ L 41, 12.2.2014, p. 13).

<sup>(171)</sup> Council Decision 2014/401/CFSP of 26 June 2014 on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre (OJ L 188, 27.6.2014, p. 73).

## PART SIX

## INSTITUTIONAL AND FINAL PROVISIONS

## TITLE I

**Consistent interpretation and application***Article 158***References to the Court of Justice of the European Union concerning Part Two**

1. Where, in a case which commenced at first instance within 8 years from the end of the transition period before a court or tribunal in the United Kingdom, a question is raised concerning the interpretation of Part Two of this Agreement, and where that court or tribunal considers that a decision on that question is necessary to enable it to give judgment in that case, that court or tribunal may request the Court of Justice of the European Union to give a preliminary ruling on that question.

However, where the subject matter of the case before the court or tribunal in the United Kingdom is a decision on an application made pursuant to Article 18(1) or (4) or pursuant to Article 19, a request for a preliminary ruling may be made only where the case commenced at first instance within a period of 8 years from the date from which Article 19 applies.

2. The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings on requests pursuant to paragraph 1. The legal effects in the United Kingdom of such preliminary rulings shall be the same as the legal effects of preliminary rulings given pursuant to Article 267 TFEU in the Union and its Member States.

3. In the event that the Joint Committee adopts a decision under Article 132(1), the period of eight years referred to in the second subparagraph of paragraph 1 shall be automatically extended by the corresponding number of months by which the transition period is extended.

*Article 159***Monitoring of the implementation and application of Part Two**

1. In the United Kingdom, the implementation and application of Part Two shall be monitored by an independent authority (the 'Authority') which shall have powers equivalent to those of the European Commission acting under the Treaties to conduct inquiries on its own initiative concerning alleged breaches of Part Two by the administrative authorities of the United Kingdom and to receive complaints from Union citizens and their family members for the purposes of conducting such inquiries. The Authority shall also have the right, following such complaints, to bring a legal action before a competent court or tribunal in the United Kingdom in an appropriate judicial procedure with a view to seeking an adequate remedy.

2. The European Commission and the Authority shall each annually inform the specialised Committee on citizens' rights referred to in point (a) of Article 165(1) on the implementation and application of Part Two in the Union and in the United Kingdom, respectively. The information provided shall, in particular, cover measures taken to implement or comply with Part Two and the number and nature of complaints received.

3. The Joint Committee shall assess, no earlier than 8 years after the end of the transition period, the functioning of the Authority. Following such assessment, it may decide, in good faith, pursuant to point (f) of Article 164(4) and Article 166, that the United Kingdom may abolish the Authority.

*Article 160***Jurisdiction of the Court of Justice of the European Union concerning certain provisions of Part Five**

Without prejudice to Article 87 of this Agreement, Articles 258, 260 and 267 TFEU shall apply in respect of the interpretation and application of applicable Union law referred to in Article 136 and Article 138(1) or (2) of this Agreement. To this effect, any reference made in Articles 258, 260 and 267 TFEU to a Member State shall be understood as including the United Kingdom.

*Article 161***Procedures before the Court of Justice of the European Union**

1. Where a court or tribunal of a Member State refers a question concerning the interpretation of this Agreement to the Court of Justice of the European Union for a preliminary ruling, the decision of the national court or tribunal containing that question shall be notified to the United Kingdom.

2. The provisions of Union law governing procedures brought before the Court of Justice of the European Union in accordance with Article 267 TFEU shall apply *mutatis mutandis* to requests for a ruling of the Court of Justice of the European Union made pursuant to Article 158 of this Agreement.

The provisions of Union law governing the procedure before the Court of Justice of the European Union shall apply in respect of the proceedings before the Court of Justice of the European Union and requests for preliminary rulings made in accordance with Article 160 of this Agreement.

3. In the cases brought before the Court of Justice of the European Union in accordance with paragraph 1 and Articles 158 and 160 of this Agreement and Article 12 of the Protocol on the Sovereign Base Areas:

- (a) the United Kingdom may participate in the proceedings before the Court of Justice of the European Union in the same way as a Member State;
- (b) lawyers authorised to practise before the courts or tribunals of the United Kingdom shall be entitled to represent or assist any parties to such proceedings before the Court of Justice of the European Union; in such cases those lawyers shall in every respect be treated as lawyers authorised to practise before courts of Member States representing or assisting a party before the Court of Justice of the European Union.

#### *Article 162*

### **Participation of the European Commission in cases pending in the United Kingdom**

Where the consistent interpretation and application of this Agreement so requires, the European Commission may submit written observations to the courts and tribunals of the United Kingdom in pending cases where the interpretation of the Agreement is concerned. The European Commission may, with the permission of the court or tribunal in question, also make oral observations. The European Commission shall inform the United Kingdom of its intention to submit observations before formally making such submissions.

#### *Article 163*

### **Regular dialogue and exchange of information**

In order to facilitate the consistent interpretation of this Agreement and in full deference to the independence of courts, the Court of Justice of the European Union and the United Kingdom's highest courts shall engage in regular dialogue, analogous to the dialogue in which the Court of Justice of the European Union engages with the highest courts of the Member States.

## *TITLE II*

### ***Institutional provisions***

#### *Article 164*

### **Joint Committee**

1. A Joint Committee, comprising representatives of the Union and of the United Kingdom, is hereby established. The Joint Committee shall be co-chaired by the Union and the United Kingdom.

2. The Joint Committee shall meet at the request of the Union or the United Kingdom, and in any event shall meet at least once a year. The Joint Committee shall set its meeting schedule and its agenda by mutual consent. The work of the Joint Committee shall be governed by the rules of procedure set out in Annex VIII to this Agreement.

3. The Joint Committee shall be responsible for the implementation and application of this Agreement. The Union and the United Kingdom may each refer to the Joint Committee any issue relating to the implementation, application and interpretation of this Agreement.

4. The Joint Committee shall:

- (a) supervise and facilitate the implementation and application of this Agreement;
- (b) decide on the tasks of the specialised committees and supervise their work;

- (c) seek appropriate ways and methods of preventing problems that might arise in areas covered by this Agreement or of resolving disputes that may arise regarding the interpretation and application of this Agreement;
- (d) consider any matter of interest relating to an area covered by this Agreement;
- (e) adopt decisions and make recommendations as set out in Article 166; and
- (f) adopt amendments to this Agreement in the cases provided for in this Agreement.

5. The Joint Committee may:

- (a) delegate responsibilities to specialised committees, except those responsibilities referred to in points (b), (e) and (f) of paragraph 4;
- (b) establish specialised committees other than those established by Article 165, in order to assist the Joint Committee in the performance of its tasks;
- (c) change the tasks assigned to specialised committees and dissolve any of those committees;
- (d) except in relation to Parts One, Four and Six, until the end of the fourth year following the end of the transition period, adopt decisions amending this Agreement, provided that such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations unforeseen when this Agreement was signed, and provided that such decisions may not amend the essential elements of this Agreement;
- (e) adopt amendments to the rules of procedure set out in Annex VIII; and
- (f) take such other actions in the exercise of its functions as decided by the Union and the United Kingdom.

6. The Joint Committee shall issue an annual report on the functioning of this Agreement.

#### *Article 165*

#### **Specialised committees**

1. The following specialised committees are hereby established:

- (a) the Committee on citizens' rights;
- (b) the Committee on the other separation provisions;
- (c) the Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland;
- (d) the Committee on issues related to the implementation of the Protocol relating to the Sovereign Base Areas in Cyprus;
- (e) the Committee on issues related to the implementation of the Protocol on Gibraltar; and
- (f) the Committee on the financial provisions.

Those specialised committees shall comprise representatives of the Union and representatives of the United Kingdom.

2. The work of the specialised committees shall be governed by the rules of procedure set out in Annex VIII to this Agreement.

Unless otherwise provided in this Agreement, or unless the co-chairs decide otherwise, the specialised committees shall meet at least once a year. Additional meetings may be held at the request of the Union, the United Kingdom, or of the Joint Committee. They shall be co-chaired by representatives of the Union and of the United Kingdom. The specialised committees shall set their meeting schedule and agenda by mutual consent. The specialised committees may draw up draft decisions and recommendations and refer them for adoption by the Joint Committee.

3. The Union and the United Kingdom shall ensure that their respective representatives on the specialised committees have the appropriate expertise with respect to the issues under discussion.

4. The specialised committees shall inform the Joint Committee of their meeting schedules and agenda sufficiently in advance of their meetings, and shall report to the Joint Committee on the results and conclusions of each of their meetings. The creation or existence of a specialised committee shall not prevent the Union or the United Kingdom from bringing any matter directly to the Joint Committee.

*Article 166***Decisions and recommendations**

1. The Joint Committee shall, for the purposes of this Agreement, have the power to adopt decisions in respect of all matters for which this Agreement so provides and to make appropriate recommendations to the Union and the United Kingdom.
2. The decisions adopted by the Joint Committee shall be binding on the Union and the United Kingdom, and the Union and the United Kingdom shall implement those decisions. They shall have the same legal effect as this Agreement.
3. The Joint Committee shall adopt its decisions and make its recommendations by mutual consent.

*TITLE III***Dispute settlement***Article 167***Cooperation**

The Union and the United Kingdom shall at all times endeavour to agree on the interpretation and application of this Agreement, and shall make every attempt, through cooperation and consultations, to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

*Article 168***Exclusivity**

For any dispute between the Union and the United Kingdom arising under this Agreement, the Union and the United Kingdom shall only have recourse to the procedures provided for in this Agreement.

*Article 169***Consultations and communications within the Joint Committee**

1. The Union and the United Kingdom shall endeavour to resolve any dispute regarding the interpretation and application of the provisions of this Agreement by entering into consultations in the Joint Committee in good faith, with the aim of reaching a mutually agreed solution. A party wishing to commence consultations shall provide written notice to the Joint Committee.
2. Any communication or notification between the Union and the United Kingdom provided for in this Title shall be made within the Joint Committee.

*Article 170***Initiation of the arbitration procedure**

1. Without prejudice to Article 160, if no mutually agreed solution has been reached within 3 months after a written notice has been provided to the Joint Committee in accordance with Article 169(1), the Union or the United Kingdom may request the establishment of an arbitration panel. Such request shall be made in writing to the other party and to the International Bureau of the Permanent Court of Arbitration. The request shall identify the subject matter of the dispute to be brought before the arbitration panel and a summary of the legal arguments in support of the request.
2. The Union and the United Kingdom may agree that the establishment of an arbitration panel may be requested before the expiry of the time limit laid down in paragraph 1.

*Article 171***Establishment of the arbitration panel**

1. The Joint Committee shall, no later than by the end of the transition period, establish a list of 25 persons who are willing and able to serve as members of an arbitration panel. To that end, the Union and the United Kingdom shall each propose ten persons. The Union and the United Kingdom shall also jointly propose five persons to act as chairperson of the arbitration panel. The Joint Committee shall ensure that the list complies with these requirements at any moment in time.

2. The list established pursuant to paragraph 1 shall only comprise persons whose independence is beyond doubt, who possess the qualifications required for appointment to the highest judicial office in their respective countries or who are jurisconsults of recognised competence, and who possess specialised knowledge or experience of Union law and public international law. That 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.

3. An arbitration panel shall be composed of five members.

4. Within 15 days of the date of a request in accordance with Article 170, the panel shall be established in accordance with paragraphs 5 and 6.

5. The Union and the United Kingdom shall each nominate two members from among the persons on the list established under paragraph 1. The chairperson shall be selected by consensus by the members of the panel from the persons jointly nominated by the Union and the United Kingdom to serve as a chairperson.

In the event that the members of the panel are unable to agree on the selection of the chairperson within the time limit laid down in paragraph 4, the Union or the United Kingdom may request the Secretary-General of the Permanent Court of Arbitration to select the chairperson by lot from among the persons jointly proposed by the Union and the United Kingdom to act as chairperson.

6. The Secretary-General of the Permanent Court of Arbitration shall make the selection referred to in second subparagraph of paragraph 5 within 5 days of the request referred to in paragraph 5. Representatives of the Union and of the United Kingdom shall be entitled to be present at the selection.

7. The date of establishment of the arbitration panel shall be the date on which the selection procedure is completed.

8. In the event that the list referred to in paragraph 1 has not been established by expiry of the time limit laid down in paragraph 4, the Union and the United Kingdom shall within 5 days each nominate two persons to serve as members of the panel. If persons have been proposed under paragraph 1, the nominations shall be made from among those persons. The chairperson shall then be appointed in accordance with the procedure set out in paragraph 5. In the event that the Union and the United Kingdom have not, within a further 5 days, jointly proposed at least one person to serve as chairperson, the Secretary-General of the Permanent Court of Arbitration shall within five days, after consultation with the Union and the United Kingdom, propose a chairperson who fulfils the requirements of paragraph 2. Unless either the Union or the United Kingdom objects to that proposal within 5 days, the person proposed by the Secretary-General of the Permanent Court of Arbitration shall be appointed.

9. In the event of failure to establish an arbitration panel within 3 months from the date of the request made pursuant to Article 170, the Secretary-General of the Permanent Court of Arbitration shall, upon request by either the Union or the United Kingdom, within 15 days of such request, after consultation with the Union and the United Kingdom, appoint persons who fulfil the requirements of paragraph 2 of this Article to constitute the arbitration panel.

#### *Article 172*

### **Rules of procedure**

Dispute settlement procedures set out in this Title shall be governed by the rules of procedure set out in Part A of Annex IX ('Rules of Procedure'), the Joint Committee shall keep the functioning of those dispute settlement procedures under constant review and may amend the Rules of Procedure.

#### *Article 173*

### **Time-frame of the procedure before the arbitration panel**

1. The arbitration panel shall notify its ruling to the Union, the United Kingdom and the Joint Committee within 12 months from the date of establishment of the arbitration panel. Where the arbitration panel considers that it cannot comply with this time limit, its chairperson shall notify the Union and the United Kingdom in writing, stating the reasons for the delay and the date on which the panel intends to conclude its work.

2. Within 10 days of the establishment of the arbitration panel the Union or the United Kingdom may submit a reasoned request to the effect that the case is urgent. In that case, the arbitration panel shall give a ruling on the urgency within 15 days from the receipt of such request. If it has determined the urgency of the case, the arbitration panel shall make every effort to notify its ruling to the Union and the United Kingdom within 6 months from the date of its establishment.

*Article 174***Disputes raising questions of Union law**

1. Where a dispute submitted to arbitration in accordance with this Title raises a question of interpretation of a concept of Union law, a question of interpretation of a provision of Union law referred to in this Agreement or a question of whether the United Kingdom has complied with its obligations under Article 89(2), the arbitration panel shall not decide on any such question. In such case, it shall request the Court of Justice of the European Union to give a ruling on the question. The Court of Justice of the European Union shall have jurisdiction to give such a ruling which shall be binding on the arbitration panel.

The arbitration panel shall make the request referred to in the first subparagraph after having heard the parties.

2. Without prejudice to the first sentence of the first subparagraph of paragraph 1, if the Union or the United Kingdom considers that a request in accordance with paragraph 1 is to be made, it may make submissions to the arbitration panel to that effect. In such case, the arbitration panel shall submit the request in accordance with paragraph 1 unless the question raised does not concern the interpretation of a concept of Union law, interpretation of a provision of Union law referred to in this Agreement, or does not concern whether the United Kingdom has complied with its obligations under Article 89(2). The arbitration panel shall provide reasons for its assessment. Within 10 days following the assessment, either party may request the arbitration panel to review its assessment, and a hearing shall be organised within 15 days of the request for the parties to be heard on the matter. The arbitration panel shall provide reasons for its assessment.

3. In the cases referred to in paragraphs 1 and 2, the time limits laid down in Article 173 shall be suspended until the Court of Justice of the European Union has given its ruling. The arbitration panel shall not be required to give its ruling less than 60 days from the date on which the Court of Justice of the European Union has given its ruling.

4. The first subparagraph of Article 161(2) and Article 161(3) shall apply *mutatis mutandis* to the procedures brought before the Court of Justice of the European Union in accordance with this Article.

*Article 175***Compliance with the arbitration panel ruling**

The arbitration panel ruling shall be binding on the Union and the United Kingdom. The Union and the United Kingdom shall take any measures necessary to comply in good faith with the arbitration panel ruling and shall endeavour to agree on the period of time to comply with the ruling in accordance with the procedure in Article 176.

*Article 176***Reasonable period of time for compliance**

1. No later than 30 days after the notification of the arbitration panel ruling to the Union and the United Kingdom, the respondent shall, if the panel has ruled in favour of the complainant, notify the complainant of the time it considers it will require for compliance (the 'reasonable period of time').

2. If there is disagreement between the Union and the United Kingdom on the reasonable period of time to comply with the arbitration panel ruling, the complainant shall, within 40 days of the notification by the respondent under paragraph 1, request the original arbitration panel in writing to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the respondent. The arbitration panel shall notify its decision on the period for compliance to the Union and the United Kingdom within 40 days of the date of submission of the request.

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene to consider a request under paragraph 2, a new arbitration panel shall be established as set out in Article 171. The time limit for notifying the decision shall be 60 days from the date of establishment of the new arbitration panel.

4. The respondent shall inform the complainant in writing of its progress in complying with the arbitration panel ruling referred to in Article 173 at least 1 month before the expiry of the reasonable period of time.

5. The reasonable period of time may be extended by mutual agreement of the Union and the United Kingdom.

*Article 177***Review of any measure taken to comply with the arbitration panel ruling**

1. The respondent shall notify the complainant before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.
2. If, at the end of the reasonable period, the complainant considers that the respondent has failed to comply with the arbitration panel ruling referred to in Article 173, the complainant may request the original arbitration panel in writing to rule on the matter. The arbitration panel shall notify its ruling to the Union and the United Kingdom within 90 days of the date of submission of the request.
3. In the event of the original arbitration panel, or some of its members, being unable to reconvene to consider a request under paragraph 2, a new arbitration panel shall be established as set out in Article 171. The time limit for notifying the ruling shall be 60 days from the date of establishment of the new arbitration panel.
4. Where a case referred to the arbitration panel pursuant to paragraph 2 raises a question of interpretation of a concept of Union law or a question of interpretation of a provision of Union law referred to in this Agreement, Article 174 shall apply *mutatis mutandis*.

*Article 178***Temporary remedies in case of non-compliance**

1. If the arbitration panel rules in accordance with Article 177(2) that the respondent has failed to comply with the arbitration panel ruling referred to in Article 173, at the request of the complainant it may impose a lump sum or penalty payment to be paid to the complainant. In determining the lump sum or penalty payment, the arbitration panel shall take into account the seriousness of the non-compliance and underlying breach of obligation, the duration of the non-compliance and underlying breach of obligation.
2. If, 1 month after the arbitration panel ruling referred to in paragraph 1, the respondent has failed to pay any lump sum or penalty payment imposed on it, or if, 6 months after the arbitration panel ruling referred to in Article 177(2), the respondent persists in not complying with the arbitration panel ruling referred to in Article 173, the complainant shall be entitled, upon notification to the respondent, to suspend obligations arising from:
  - (a) any provision of this Agreement other than those contained in Part Two; or
  - (b) parts of any other agreement between the Union and the United Kingdom under the conditions set out in that agreement.

The notification shall specify the provisions which the complainant intends to suspend. Before deciding to suspend parts of an agreement referred to in point (b) the complainant shall first consider whether the suspension of the provision of this Agreement in accordance with point (a) would be an appropriate response to the breach. Any suspension shall be proportionate to the breach of obligation concerned, taking into account the gravity of the breach and the rights in question and, where the suspension is based on the fact that the respondent persists in not complying with the arbitration panel ruling referred to in Article 173, whether a penalty payment has been imposed on the respondent and has been paid or is still being paid by the latter.

The complainant may implement the suspension at any moment but not earlier than 10 days after the date of the notification, unless the respondent has requested arbitration under paragraph 3.

3. If the respondent considers that the extent of the suspension set out in the notification referred to in paragraph 2 is not proportionate, it may request the original arbitration panel in writing to rule on the matter. Such request shall be notified to the complainant before the expiry of the 10-day period referred to in paragraph 2. The arbitration panel shall notify its ruling to the Union and the United Kingdom within 60 days of the date of submission of the request. Obligations shall not be suspended until the arbitration panel has notified its ruling, and any suspension shall be consistent with the arbitration panel ruling.
4. In the event of the original arbitration panel, or some of its members, being unable to reconvene to consider a request under paragraph 2, a new arbitration panel shall be established as set out in Article 171. In such cases, the period for notifying the ruling shall be 90 days from the date of establishment of the new arbitration panel.
5. The suspension of obligations shall be temporary and shall be applied only until any measure found to be inconsistent with the provisions of this Agreement has been withdrawn or amended, so as to achieve conformity with the provisions of this Agreement, or until the Union and the United Kingdom have agreed to otherwise settle the dispute.



*Article 179***Review of any measure taken after temporary remedies**

1. Where the complainant has suspended obligations in accordance with Article 178 or where the arbitration panel has imposed a penalty payment on the respondent in accordance with Article 178(1), the respondent shall notify the complainant of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to the suspension of obligations applied by the complainant or to the penalty payment.

2. If the Union and the United Kingdom do not reach an agreement on whether the notified measure brings the respondent into conformity with the provisions of this Agreement within 45 days of the date of submission of the notification, either party may request the original arbitration panel in writing to rule on the matter. Such request shall be notified simultaneously to the other party. The arbitration panel ruling shall be notified to the Union and the United Kingdom and to the Joint Committee within 75 days of the date of submission of the request.

If the arbitration panel rules that the respondent has brought itself into conformity with this Agreement, or if the complainant does not, within 45 days of the submission of the notification referred to in paragraph 1, request that the original arbitration panel rule on the matter:

(a) the suspension of obligations shall be terminated within 15 days of either the ruling of the arbitration panel or the end of the 45-day period;

(b) the penalty payment shall be terminated on the day after either the ruling of the arbitration panel or the end of the 45-day period.

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene to consider a request under paragraph 2, a new arbitration panel shall be established as set out in Article 171. The period for notifying the ruling shall in that case be 90 days from the date of establishment of the new arbitration panel.

4. Where a case referred to the arbitration panel pursuant to paragraph 2 raises a question of interpretation of a concept of Union law or a question of interpretation of a provision of Union law referred to in this Agreement, Article 174 shall apply *mutatis mutandis*.

*Article 180***Arbitration panel decisions and rulings**

1. The arbitration panel shall make every effort to take decisions by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. However, in no case dissenting opinions of members of an arbitration panel shall be published.

2. Any ruling of the arbitration panel shall be binding on the Union and the United Kingdom. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement, and the reasoning behind any findings and conclusions. The Union and the United Kingdom shall make the arbitration panel rulings and decisions publicly available in their entirety, subject to the protection of confidential information.

*Article 181***Members of an arbitration panel**

1. The members of an arbitration panel shall be independent, shall serve in their individual capacity and shall not take instructions from any organisation or government, and shall comply with the Code of Conduct set out in Part B of Annex IX. The Joint Committee may amend that Code of Conduct.

2. The members of an arbitration panel shall, as from the establishment thereof, enjoy immunity from legal proceedings in the Union and the United Kingdom with respect to acts performed by them in the exercise of their functions on that arbitration panel.

*TITLE IV***Final provisions***Article 182***Protocols and Annexes**

The Protocol on Ireland / Northern Ireland, the Protocol relating to the Sovereign Base Areas in Cyprus, the Protocol on Gibraltar, and Annexes I to IX shall form an integral part of this Agreement.

*Article 183***Authentic texts and depositary**

This Agreement is drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic.

The Secretary General of the Council shall be the depositary of this Agreement.

*Article 184***Negotiations on the future relationship**

The Union and the United Kingdom shall use their best endeavours, in good faith and in full respect of their respective legal orders, to take the necessary steps to negotiate expeditiously the agreements governing their future relationship referred to in the Political Declaration of 25 November 2018 and to conduct the relevant procedures for the ratification or conclusion of those agreements, with a view to ensuring that those agreements apply, to the extent possible, as from the end of the transition period.

*Article 185***Entry into force and application**

This Agreement shall enter into force on 30 March 2019. In the event that, prior to that date, the depositary of this Agreement has not received the written notification of the completion of the necessary internal procedures by the Union and the United Kingdom, this Agreement shall not enter into force.

When making the written notification referred to in the first paragraph, the Union, in respect of any Member State which has raised reasons related to fundamental principles of national law of that Member State, may declare that, during the transition period, in addition to the grounds for non-execution of a European arrest warrant referred to in Framework Decision 2002/584/JHA, the executing judicial authorities of that Member State may refuse to surrender its nationals to the United Kingdom pursuant to a European arrest warrant. In such a case, the United Kingdom may declare, no later than 1 month after the receipt of the Union's declaration, that its executing judicial authorities may refuse to surrender its nationals to that Member State.

Parts Two and Three, with the exception of Article 19, Article 34(1), Article 44, and Article 96(1), as well as Title I of Part Six and Articles 169 to 181, shall apply as from the end of the transition period.

The Protocol on Ireland/Northern Ireland shall apply as from the end of the transition period, with the exception of the following provisions of that Protocol, which shall apply as from the entry into force of this Agreement:

- Articles 1, 2 and 3;
- the last sentence of the third subparagraph, the fourth subparagraph, the last sentence of the fifth subparagraph, and the sixth subparagraph of Article 6(1);
- the second sentence of the first subparagraph of Article 6(2);
- the last sentence of Article 12(2);
- Article 14(3);
- Article 16;
- Article 17(1) to (4) and (6);
- Article 21;
- the third sentence of Article 4(3) and Article 5(2) of Annex 2;
- the second sentence of Article 4(1), Article 8(1) and the first sentence of the second paragraph of Article 13 of Annex 3;
- Articles 1(4) and 2(3), the last sentence of Article 7(2) and the first paragraph of Article 8 of Annex 4; and
- the first paragraph of Annex 9.

The Protocol relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, with the exception of Article 11 thereof, shall apply as from the end of the transition period.

The Protocol on Gibraltar, with the exception of Article 1 thereof, shall cease to apply at the end of the transition period.

Done at ....

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**PROTOCOLS**

**PROTOCOL ON IRELAND/NORTHERN IRELAND**

The Union and the United Kingdom,

HAVING REGARD to the historic ties and enduring nature of the bilateral relationship between Ireland and the United Kingdom,

RECALLING that the United Kingdom's withdrawal from the Union presents a significant and unique challenge to the island of Ireland, and reaffirming that the achievements, benefits and commitments of the peace process will remain of paramount importance to peace, stability and reconciliation there,

RECOGNISING that it is necessary to address the unique circumstances on the island of Ireland through a unique solution in order to ensure the orderly withdrawal of the United Kingdom from the Union,

RECALLING that 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 (the Withdrawal Agreement), which is based on Article 50 TEU, does not aim at establishing a permanent future relationship between the Union and the United Kingdom,

RECALLING the Union's and the United Kingdom's intention to replace the backstop solution on Northern Ireland by a subsequent agreement that establishes alternative arrangements for ensuring the absence of a hard border on the island of Ireland on a permanent footing,

HAVING REGARD to the Union's and to the United Kingdom's common objective of a close future relationship, which will establish ambitious customs arrangements that build on the single customs territory provided for in this Protocol, in full respect of their respective legal orders,

AFFIRMING that the Good Friday or Belfast Agreement of 10 April 1998 between the Government of the United Kingdom, the Government of Ireland and the other participants in the multi-party negotiations (the '1998 Agreement'), which is annexed to the British-Irish Agreement of the same date (the 'British-Irish Agreement'), including its subsequent implementation agreements and arrangements, should be protected in all its parts,

RECOGNISING that cooperation between Northern Ireland and Ireland is a central part of the 1998 Agreement and is essential for achieving reconciliation and the normalisation of relationships on the island of Ireland, and recalling the roles, functions and safeguards of the Northern Ireland Executive, the Northern Ireland Assembly and the North-South Ministerial Council (including cross-community provisions), as set out in the 1998 Agreement,

NOTING that Union law has provided a supporting framework for the provisions on Rights, Safeguards and Equality of Opportunity of the 1998 Agreement,

RECOGNISING that Irish citizens in Northern Ireland, by virtue of their Union citizenship, will continue to enjoy, exercise and have access to rights, opportunities and benefits, and that this Protocol should respect and be without prejudice to the rights, opportunities and identity that come with citizenship of the Union for the people of Northern Ireland who choose to assert their right to Irish citizenship, as defined in Annex 2 of the British-Irish Agreement 'Declaration on the Provisions of Paragraph (vi) of Article 1 in Relation to Citizenship',

RECALLING the commitment of the United Kingdom to protect North-South cooperation and its guarantee of avoiding a hard border, including any physical infrastructure or related checks and controls, and bearing in mind that any future arrangements must be compatible with these overarching requirements,

NOTING that nothing in this Protocol prevents the United Kingdom from ensuring unfettered market access for goods moving from Northern Ireland to the rest of the United Kingdom's internal market,

UNDERLINING the Union's and the United Kingdom's shared aim of avoiding controls at the ports and airports of Northern Ireland, to the extent possible in accordance with applicable legislation and taking into account their respective regulatory regimes as well as the implementation thereof,

RECALLING that the Joint Report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union of 8 December 2017 outlines three different scenarios for protecting North-South cooperation and avoiding a hard border, but that this Protocol is based on the third scenario of maintaining full alignment with those rules of the Union's internal market and the customs union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement, to apply unless and until an alternative arrangement implementing another scenario is agreed,

NOTING that, in accordance with Article 132 of the Withdrawal Agreement, the transition period may be extended by mutual consent,

RECALLING that the Union and the United Kingdom have carried out a mapping exercise which shows that North-South cooperation relies to a significant extent on a common Union legal and policy framework,

NOTING that therefore the United Kingdom's withdrawal from the Union gives rise to substantial challenges to the maintenance and development of North-South cooperation,

RECALLING that the United Kingdom remains committed to protecting and supporting continued North-South and East-West cooperation across the full range of political, economic, security, societal and agricultural contexts and frameworks for cooperation, including the continued operation of the North-South implementation bodies,

ACKNOWLEDGING the need for this Protocol to be implemented so as to maintain the necessary conditions for continued North-South cooperation, including for possible new arrangements in accordance with the 1998 Agreement,

RECALLING the Union's and the United Kingdom's commitments to the North South PEACE and INTERREG funding programmes under the current multi-annual financial framework and to the maintaining of the current funding proportions for the future programme,

AFFIRMING the commitment of the United Kingdom to facilitate the efficient and timely transit through its territory of goods moving from Ireland to another Member State or to a third country, and vice versa,

DETERMINED that the application of this Protocol should impact as little as possible on the everyday life of communities in both Ireland and Northern Ireland,

MINDFUL that the rights and obligations of Ireland under the rules of the Union's internal market and customs union must be fully respected,

HAVE AGREED UPON the following provisions, which shall be annexed to the Withdrawal Agreement:

#### *Article 1*

### **Objectives and relationship to subsequent agreement**

1. This Protocol is without prejudice to the provisions of the 1998 Agreement in respect of the constitutional status of Northern Ireland and the principle of consent, which provides that any change in that status can only be made with the consent of a majority of its people.
2. This Protocol respects the essential State functions and territorial integrity of the United Kingdom.
3. This Protocol sets out arrangements necessary to address the unique circumstances on the island of Ireland, to maintain the necessary conditions for continued North-South cooperation, to avoid a hard border and to protect the 1998 Agreement in all its dimensions.
4. The objective of the Withdrawal Agreement is not to establish a permanent relationship between the Union and the United Kingdom. The provisions of this Protocol are therefore intended to apply only temporarily, taking into account the commitments of the Union and the United Kingdom set out in Article 2(1). The provisions of this Protocol shall apply unless and until they are superseded, in whole or in part, by a subsequent agreement.

#### *Article 2*

### **Subsequent agreement**

1. The Union and the United Kingdom shall use their best endeavours to conclude, by 31 December 2020, an agreement which supersedes this Protocol in whole or in part.
2. Any subsequent agreement between the Union and the United Kingdom shall indicate the parts of this Protocol which it supersedes. Once a subsequent agreement between the Union and the United Kingdom becomes applicable after the entry into force of the Withdrawal Agreement, this Protocol shall then, from the date of application of such subsequent agreement and in accordance with the provisions of that agreement setting out the effect of that agreement on this Protocol, not apply or shall cease to apply, as the case may be, in whole or in part, notwithstanding Article 20.

*Article 3***Extension of the transition period**

The United Kingdom, having had regard to the progress made towards conclusion of the agreement referred to in Articles 1(4) and 2(1) of this Protocol, may at any time before 1 July 2020 request the extension of the transition period referred to in Article 126 of the Withdrawal Agreement. If the United Kingdom makes such a request, the transition period may be extended in accordance with Article 132 of the Withdrawal Agreement.

*Article 4***Rights of individuals**

1. The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.
2. The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

*Article 5***Common Travel Area**

1. The United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (the 'Common Travel Area'), while fully respecting the rights of natural persons conferred by Union law.
2. The United Kingdom shall ensure that the Common Travel Area and the rights and privileges associated therewith can continue to apply without affecting the obligations of Ireland under Union law, in particular with respect to free movement to, from and within Ireland for Union citizens and their family members, irrespective of their nationality.

*Article 6***Single customs territory, movement of goods**

1. Until the future relationship becomes applicable, a single customs territory between the Union and the United Kingdom shall be established ('the single customs territory'). Accordingly, Northern Ireland is in the same customs territory as Great Britain.

The single customs territory shall comprise:

- (a) the customs territory of the Union defined in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>(1)</sup>; and
- (b) the customs territory of the United Kingdom.

The rules set out in Annex 2 to this Protocol shall apply in respect of all trade in goods between the territories referred to in the second subparagraph, as well as, where so provided, between the single customs territory and third countries. With a view to ensuring the maintenance of the level-playing-field conditions required for the proper functioning of this paragraph, the provisions set out in Annex 4 to this Protocol shall apply. Where appropriate, the Joint Committee may amend Annex 4 in order to lay down higher standards for these level playing field conditions.

The Joint Committee shall adopt, before 1 July 2020, the detailed rules relating to trade in goods between the two parts of the single customs territory for the implementation of this paragraph. In the absence of such a decision adopted before 1 July 2020, Annex 3 to this Protocol shall apply.

<sup>(1)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

By way of derogation from the third subparagraph, fishery and aquaculture products, as set out in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>(2)</sup> ('fishery and aquaculture products'), shall be covered neither by the rules set out in Annexes 2 and 4 to this Protocol nor by the rules referred to in the fourth subparagraph of this paragraph, unless an agreement on access to waters and fishing opportunities is applicable between the Union and the United Kingdom. In accordance with Article 184 of the Withdrawal Agreement, the Union and the United Kingdom shall use their best endeavours to conclude and ratify such an agreement before 1 July 2020.

The Joint Committee may adopt decisions amending Annex 3 to this Protocol, where such amendments are necessary for the proper functioning of this paragraph. Such decisions may not amend the essential elements of this Protocol or the Withdrawal Agreement.

The second subparagraph is without prejudice to the specific arrangements set out in the Protocol relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

2. Legislation as defined in point (2) of Article 5 of Regulation (EU) No 952/2013 shall apply to and in the United Kingdom in respect of Northern Ireland (not including the territorial waters of the United Kingdom). However, the Joint Committee shall establish the conditions, including in quantitative terms, under which certain fishery and aquaculture products brought into the customs territory of the Union defined in Article 4 of Regulation (EU) No 952/2013 by vessels flying the flag of the United Kingdom and having their port of registration in Northern Ireland are exempted from duties.

The provisions of Union law listed in Annex 5 to this Protocol shall also apply, under the conditions set out in that Annex, to and in the United Kingdom in respect of Northern Ireland.

Articles 30 and 110 TFEU shall apply to and in the United Kingdom in respect of Northern Ireland. Quantitative restrictions on exports and imports shall be prohibited between the Union and Northern Ireland.

#### *Article 7*

#### **Protection of the UK internal market**

1. Nothing in this Protocol shall prevent the United Kingdom from ensuring unfettered market access for goods moving from Northern Ireland to the rest of the United Kingdom's internal market. Provisions of Union law made applicable by this Protocol which prohibit or restrict the exportation of goods shall only be applied to trade between the territories referred to in the second subparagraph of Article 6(1) to the extent strictly required by any international obligations of the Union. The United Kingdom shall ensure full protection under international requirements and commitments that are relevant to the prohibitions and restrictions on the exportation of goods from the Union to third countries as set out in Union law.

2. Having regard to Northern Ireland's integral place in the United Kingdom's internal market, the Union and the United Kingdom shall use their best endeavours to facilitate the trade between the part of the territory of the United Kingdom to which Regulation (EU) No 952/2013 applies by virtue of Article 6(2) of this Protocol and other parts of the territory of the United Kingdom, in accordance with applicable legislation and taking into account their respective regulatory regimes as well as the implementation thereof. The Joint Committee shall keep the application of this paragraph under constant review and shall adopt appropriate recommendations with a view to avoiding controls at the ports and airports of Northern Ireland to the extent possible.

3. Nothing in this Protocol shall prevent a product originating from Northern Ireland from being presented as originating from the United Kingdom when placed on the market in Great Britain.

4. Nothing in this Protocol shall affect the law of the United Kingdom regulating the placing on the market in other parts of the United Kingdom of goods from Northern Ireland that comply with or benefit from technical regulations, assessments, registrations, certificates, approvals or authorisations governed by provisions of Union law referred to in Annex 5 to this Protocol.

#### *Article 8*

#### **Technical regulations, assessments, registrations, certificates, approvals and authorisations**

1. Without prejudice to the provisions of Union law referred to in Annex 5 to this Protocol, the lawfulness of placing goods on the market in Northern Ireland shall be governed by the law of the United Kingdom as well as, as regards goods imported from the Union, by Articles 34 and 36 TFEU.

<sup>(2)</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).



2. Where provisions of Union law made applicable by this Protocol provide for the indication of a Member State, including in abbreviated form, in markings, labelling, tags, or by any other means, the United Kingdom in respect of Northern Ireland shall be indicated as 'UK(NI)' or 'United Kingdom (Northern Ireland)'. Where provisions of Union law made applicable by this Protocol provide for the indication in the form of a numeric code, the United Kingdom in respect of Northern Ireland shall be indicated with a distinguishable numeric code.

3. By way of derogation from Article 15(1) of this Protocol and from Article 7 of the Withdrawal Agreement, in respect of the recognition in one Member State of technical regulations, assessments, registrations, certificates, approvals and authorisations issued or carried out by the authorities of another Member State, or by a body established in another Member State, references to Member States in provisions of Union law made applicable by this Protocol shall not be read as including the United Kingdom in respect of Northern Ireland as regards technical regulations, assessments, registrations, certificates, approvals and authorisations issued or carried out by the authorities of the United Kingdom or by bodies established in the United Kingdom.

The first subparagraph shall not apply to registrations, certifications, approvals and authorisations of sites, installations or premises in Northern Ireland issued or carried out by competent authorities of the United Kingdom, where the registration, certification, approval or authorisation may require an inspection of the sites, installations or premises.

The first subparagraph shall not apply to veterinary certificates or official labels for plant reproductive material that are required by provisions of Union law made applicable by this Protocol.

The first subparagraph is without prejudice to the validity, in Northern Ireland, of assessments, registrations, certificates, approvals and authorisations issued or carried out, on the basis of provisions of Union law made applicable by this Protocol, by the competent authorities of the United Kingdom or by bodies established in the United Kingdom. Any conformity marking, logo or similar required by the provisions of Union law made applicable by this Protocol which is affixed by economic operators based on the assessment, registration, certificate, approval or authorisation issued by competent authorities of the United Kingdom or by bodies established in the United Kingdom shall be accompanied by the indication 'UK(NI)'.

The United Kingdom in respect of Northern Ireland may not initiate objection, safeguard or arbitration procedures provided for in provisions of Union law made applicable by this Protocol to the extent that those procedures concern the technical regulations, standards, assessments, registrations, certificates, approvals and authorisations issued or carried out by competent authorities of the Member States or by bodies established in Member States.

The first subparagraph does not prevent the test and release by a qualified person in Northern Ireland of a batch of a medicinal product imported into or manufactured in Northern Ireland.

#### *Article 9*

### **VAT and excise**

The provisions of Union law listed in Annex 6 to this Protocol concerning goods shall apply to and in the United Kingdom in respect of Northern Ireland.

The Joint Committee shall regularly discuss the implementation of this Article, and where appropriate, shall adopt the necessary measures for its proper application.

#### *Article 10*

### **Agriculture and environment**

The provisions of Union law listed in Annex 5 to this Protocol shall apply, under the conditions set out in that Annex, to and in the United Kingdom in respect of Northern Ireland.

#### *Article 11*

### **Single electricity market**

The provisions of Union law governing wholesale electricity markets listed in Annex 7 to this Protocol shall apply, under the conditions set out in that Annex, to and in the United Kingdom in respect of Northern Ireland.

*Article 12***State aid**

1. The provisions of Union law listed in Annex 8 to this Protocol shall apply to the United Kingdom, including with regard to measures supporting the production of and trade in agricultural products in Northern Ireland, in respect of measures which affect that trade between the part of the territory of the United Kingdom to which Regulation (EU) No 952/2013 applies by virtue of Article 6(2) of this Protocol and the Union which is subject to this Protocol.

2. Notwithstanding paragraph 1, the provisions of Union law referred to in that paragraph shall not apply with respect to measures taken by the United Kingdom authorities to support the production of and trade in agricultural products in Northern Ireland up to a determined maximum overall annual level of support, and provided that a determined minimum percentage of that exempted support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture. The determination of the maximum exempted overall annual level of support and the minimum percentage shall be governed by the procedures set out in Annex 9.

3. Where the European Commission examines information regarding a measure by the United Kingdom authorities that may constitute unlawful aid that is subject to paragraph 1, it shall ensure that the United Kingdom is kept fully and regularly informed of the progress and outcome of the examination of that measure.

The European Commission and the independent authority referred to in Article 9 of Annex 4 shall establish the administrative arrangements necessary for the proper implementation of this Article and Part Four of Annex 4 respectively, and keep those arrangements under review.

*Article 13***Other areas of North-South cooperation**

1. Consistent with the arrangements set out in Article 6(2) and Articles 7 to 12, and in full respect of Union law, this Protocol shall be implemented and applied so as to maintain the necessary conditions for continued North-South cooperation, including in the areas of environment, health, agriculture, transport, education and tourism, as well as in the areas of energy, telecommunications, broadcasting, inland fisheries, justice and security, higher education and sport.

In full respect of Union law, the United Kingdom and Ireland may continue to make new arrangements that build on the provisions of the 1998 Agreement in other areas of North-South cooperation on the island of Ireland.

2. The Joint Committee shall keep under constant review the extent to which the implementation and application of this Protocol maintains the necessary conditions for North-South cooperation. The Joint Committee may make appropriate recommendations to the Union and the United Kingdom in this respect, including on a recommendation from the Specialised Committee.

*Article 14***Implementation, application, supervision and enforcement**

1. Without prejudice to paragraph 4, the authorities of the United Kingdom shall be responsible for implementing and applying the provisions of Union law made applicable by this Protocol to and in the United Kingdom in respect of Northern Ireland.

2. Without prejudice to paragraph 4, Union representatives shall have the right to be present during any activities of the United Kingdom authorities related to the implementation and application of provisions of Union law made applicable by this Protocol, and the United Kingdom shall provide, upon request, all relevant information relating to such activities. The United Kingdom shall facilitate such presence of Union representatives and shall provide them with the information requested. Where the Union representative requests the United Kingdom authorities to carry out control measures in individual cases for duly stated reasons, the United Kingdom authorities shall carry out those control measures.

3. The practical working arrangements relating to the exercise of the rights of Union representatives referred to in paragraph 2 shall be determined by the Joint Committee, upon proposal from the Specialised Committee.

4. As regards Article 6(2), and Articles 8 to 12 of this Protocol, as well as Article 7(1) of Annex 4 to this Protocol in respect of measures of the Member States, the institutions, bodies, offices, and agencies of the Union shall in relation to the United Kingdom and natural and legal persons residing or established in the territory of the United Kingdom have the powers conferred upon them by Union law. In particular, the Court of Justice of the European Union shall have the jurisdiction provided for in the Treaties in this respect. The second and third subparagraphs of Article 267 TFEU shall apply to and in the United Kingdom in this respect.

5. Acts of the institutions, bodies, offices, and agencies of the Union adopted in accordance with paragraph 4 shall produce in respect of and in the United Kingdom the same legal effects as those which they produce within the Union and its Member States.

6. When representing or assisting a party in relation to administrative procedures arising from the exercise of the powers of the institutions, bodies, offices, and agencies of the Union referred to in paragraph 4, lawyers authorised to practise before the courts or tribunals of the United Kingdom shall in every respect be treated as lawyers authorised to practise before courts or tribunals of Member States who represent or assist a party in relation to such administrative procedures.

7. In cases brought before the Court of Justice of the European Union pursuant to paragraph 4:

- (a) the United Kingdom may participate in the proceedings before the Court of Justice of the European Union in the same way as a Member State;
- (b) lawyers authorised to practise before the courts or tribunals of the United Kingdom may represent or assist a party before the Court of Justice of the European Union in such proceedings and shall in every respect be treated as lawyers authorised to practise before courts or tribunals of Member States representing or assisting a party before the Court of Justice of the European Union.

#### Article 15

#### Common provisions

1. For the purposes of this Protocol, any reference to the United Kingdom in the applicable provisions of the Withdrawal Agreement shall be read as referring to the United Kingdom or to the United Kingdom in respect of Northern Ireland, as the case may be.

Notwithstanding any other provisions of this Protocol, any reference to the territory defined in Article 4 of Regulation (EU) No 952/2013 in the applicable provisions of the Withdrawal Agreement and of this Protocol, as well as in the provisions of Union law made applicable to and in the United Kingdom in respect of Northern Ireland by this Protocol, shall be read as including the part of the territory of the United Kingdom to which Regulation (EU) No 952/2013 applies by virtue of Article 6(2) of this Protocol.

For the purposes of the first subparagraph of Article 6(1), the term 'customs territory' shall have the same meaning as in Article XXIV of the General Agreement on Tariffs and Trade 1994.

Titles I and III of Part Three and Part Six of the Withdrawal Agreement shall apply without prejudice to the provisions of this Protocol.

2. For the purposes of this Protocol, the following definitions shall apply:

- 'third country' means a country or territory which does not belong to the customs territories referred to in the second subparagraph of Article 6(1);
- 'part of the single customs territory' means either the customs territory of the Union defined in Article 4 of Regulation (EU) No 952/2013 or the customs territory of the United Kingdom.

3. Notwithstanding Article 4(4) and 4(5) of the Withdrawal Agreement, the provisions of this Protocol referring to Union law or to concepts or provisions thereof shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union.

4. Notwithstanding Article 6(1) of the Withdrawal Agreement, and unless otherwise provided, where this Protocol makes reference to a Union act, that reference shall be read as referring to that Union act as amended or replaced.

5. Where the Union adopts a new act that falls within the scope of this Protocol, but which neither amends nor replaces a Union act listed in the Annexes to this Protocol, the Union shall inform the United Kingdom of the adoption of that act in the Joint Committee. Upon the request of the Union or the United Kingdom, the Joint Committee shall hold an exchange of views on the implications of the newly adopted act for the proper functioning of this Protocol, within 6 weeks after the request.

As soon as reasonably practical after the Union has informed the United Kingdom in the Joint Committee, the Joint Committee shall either:

- (a) adopt a decision adding the newly adopted act to the relevant Annex to this Protocol; or
- (b) where an agreement on adding the newly adopted act to the relevant Annex to this Protocol cannot be reached, examine all further possibilities to maintain the good functioning of this Protocol and take any decision necessary to this effect.

If the Joint Committee has not taken a decision referred to in the second subparagraph within a reasonable time, the Union shall be entitled, after giving notice to the United Kingdom, to take appropriate remedial measures. Such measures shall take effect at the earliest 6 months after the Union informed the United Kingdom in accordance with the first subparagraph, but in no event shall such measures take effect before the date on which the newly adopted act is implemented in the Union.

6. By way of derogation from paragraph 1 of this Article and from Article 7 of the Withdrawal Agreement, unless the Union considers that full or partial access by the United Kingdom or the United Kingdom in respect of Northern Ireland, as the case may be, is strictly necessary to enable the United Kingdom to comply with its obligations under this Protocol, including where such access is necessary because access to the relevant information cannot be facilitated by the working group referred to in Article 17 of this Protocol or by any other practical means, in respect of access to any network, information system or database established on the basis of Union law, references to Member States and competent authorities of Member States in provisions of Union law made applicable by this Protocol shall not be read as including the United Kingdom or the United Kingdom in respect of Northern Ireland, as the case may be.

7. Authorities of the United Kingdom shall not act as leading authority for risk assessments, examinations, approvals and authorisation procedures provided for in Union law made applicable by this Protocol.

8. Articles 346 and 347 TFEU shall apply to this Protocol as regards measures taken by a Member State or by the United Kingdom in respect of Northern Ireland.

#### *Article 16*

#### **Specialised Committee**

The Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland established by Article 165 of the Withdrawal Agreement ('Specialised Committee') shall:

- (a) facilitate the implementation and application of this Protocol;
- (b) examine proposals concerning the implementation and application of this Protocol from the North-South Ministerial Council and North-South Implementation bodies set up under the 1998 Agreement;
- (c) consider any matter of relevance to Article 4 of this Protocol brought to its attention by the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland;
- (d) discuss any point raised by the Union or the United Kingdom that is of relevance to this Protocol and gives rise to a difficulty; and
- (e) make recommendations to the Joint Committee as regards the functioning of this Protocol.

#### *Article 17*

#### **Joint consultative working group**

1. A joint consultative working group on the implementation of this Protocol ('working group') is hereby established. It shall serve as a forum for the exchange of information and mutual consultation.

2. The working group shall be composed of representatives of the Union and the United Kingdom and shall carry out its functions under the supervision of the Specialised Committee, to which it shall report. The working group shall have no power to take binding decisions other than the power to adopt its own rules of procedure referred to in paragraph 6.

3. Within the working group:
  - (a) the Union and the United Kingdom shall, in a timely manner, exchange information about planned, ongoing and final relevant implementation measures in relation to the Union acts listed in the Annexes to this Protocol;
  - (b) the Union shall inform the United Kingdom about planned Union acts within the scope of this Protocol, including Union acts that amend or replace the Union acts listed in the Annexes to this Protocol;
  - (c) the Union shall provide to the United Kingdom all information the Union considers relevant to allow the United Kingdom to fully comply with its obligations under the Protocol; and
  - (d) the United Kingdom shall provide to the Union all information that Member States are required to provide to one another or to the institutions, bodies, offices or agencies of the Union pursuant to the Union acts listed in the Annexes to this Protocol.
4. The working group shall be co-chaired by the Union and the United Kingdom.
5. The working group shall meet at least once a month, unless otherwise decided by the Union and the United Kingdom by mutual consent. Where necessary, the Union and the United Kingdom may exchange information referred to in points (c) and (d) of paragraph 3 between meetings.
6. The working group shall adopt its own rules of procedure by mutual consent.
7. The Union shall ensure that all views expressed by the United Kingdom in the working group and all information provided by the United Kingdom in the working group, including technical and scientific data, are communicated to the relevant institutions, bodies, offices and agencies of the Union without undue delay.

#### *Article 18*

#### **Safeguards**

1. If the application of this Protocol leads to serious economic, societal or environmental difficulties that are liable to persist, or to diversion of trade, the Union or the United Kingdom may unilaterally take appropriate safeguard measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Protocol.
2. If a safeguard measure taken by the Union or the United Kingdom, as the case may be, in accordance with paragraph 1 creates an imbalance between the rights and obligations under this Protocol, the Union or the United Kingdom, as the case may be, may take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to such measures as will least disturb the functioning of this Protocol.
3. Safeguard and rebalancing measures taken in accordance with paragraphs 1 and 2 shall be governed by the procedures set out in Annex 10 to this Protocol.

#### *Article 19*

#### **Protection of financial interests**

The Union and the United Kingdom shall counter fraud and any other illegal activities affecting the financial interests of the Union or the financial interests of the United Kingdom.

#### *Article 20*

#### **Review**

If at any time after the end of the transition period the Union or the United Kingdom considers that this Protocol is, in whole or in part, no longer necessary to achieve the objectives set out in Article 1(3) and should cease to apply, in whole or in part, it may notify the other party, setting out its reasons.

Within 6 months of such a notification, the Joint Committee shall meet at ministerial level to consider the notification, having regard to all of the objectives specified in Article 1. The Joint Committee may seek an opinion from institutions created by the 1998 Agreement.

If, following the consideration referred to in the second paragraph, and acting in full respect of Article 5 of the Withdrawal Agreement, the Union and the United Kingdom decide jointly within the Joint Committee that the Protocol, in whole or in part, is no longer necessary to achieve its objectives, the Protocol shall cease to apply, in whole or in part. In such a case the Joint Committee shall address recommendations to the Union and to the United Kingdom on the necessary measures, taking into account the obligations of the parties to the 1998 Agreement.

*Article 21*

**Annexes**

Annexes 1 to 10 shall form an integral part of this Protocol.

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## ANNEX 1

## PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 4(1)

- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services <sup>(1)</sup>
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation <sup>(2)</sup>
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin <sup>(3)</sup>
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation <sup>(4)</sup>
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC <sup>(5)</sup>
- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security <sup>(6)</sup>

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<sup>(1)</sup> OJ L 373, 21.12.2004, p. 37.

<sup>(2)</sup> OJ L 204, 26.7.2006, p. 23.

<sup>(3)</sup> OJ L 180, 19.7.2000, p. 22.

<sup>(4)</sup> OJ L 303, 2.12.2000, p. 16.

<sup>(5)</sup> OJ L 180, 15.7.2010, p. 1.

<sup>(6)</sup> OJ L 6, 10.1.1979, p. 24.

## ANNEX 2

## Article 1

**Scope**

1. Subject to the conditions laid down in Article 6(1) of this Protocol, this Annex shall apply to all goods:
  - (a) produced in the customs territory of the Union or the customs territory of the United Kingdom, including those wholly or partially obtained or produced from products coming from third countries which are in free circulation in the customs territory of the Union or the customs territory of the United Kingdom; or
  - (b) coming from third countries and in free circulation in the customs territory of the Union or the customs territory of the United Kingdom;
  - (c) obtained or produced in the customs territory of the Union or the customs territory of the United Kingdom, in the manufacture of which products coming from third countries that are not in free circulation either in the customs territory of the Union or the customs territory of the United Kingdom were used, provided that the import formalities have been complied with and any customs duties or charges having an equivalent effect which are payable on those goods or on the third-country products used in their manufacture have been levied in the exporting part of the single customs territory.

The term 'wholly obtained' in point (a) shall have the same meaning in the customs territory of the United Kingdom as it does in the customs territory of the Union.

2. Goods from third countries shall be considered to be in free circulation in the customs territory of the Union or the customs territory of the United Kingdom if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied by the Union or by the United Kingdom in their respective part of the single customs territory, and if the goods have not benefitted from a total or partial reimbursement of such duties or charges.
3. As regards goods obtained or produced in the customs territory of the Union or the customs territory of the United Kingdom, in the manufacture of which products coming from third countries and not in free circulation either in the customs territory of the Union or the customs territory of the United Kingdom were used, but which goods are not covered by point (c) of paragraph 1, the importing part of the single customs territory shall apply the customs legislation applying to goods from third countries.

## Article 2

**Trade between the parts of the single customs territory**

1. Customs duties on imports and exports, and any charges having equivalent effect, shall be prohibited between the parts of the single customs territory. This prohibition shall also apply to customs duties of a fiscal nature.

Charges for the performance of customs controls or for any other application of the customs legislation between the parts of the single customs territory shall be considered having equivalent effect to customs duties. Charges may however be imposed or costs recovered where specific services are rendered by the customs authorities, in particular the following:

- (a) where requested, attendance by customs staff outside official office hours or at premises other than customs premises;
- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken or information provided upon application;
- (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

2. Articles III, V and Article XI of the General Agreement on Tariffs and Trade 1994 ('GATT 1994') are incorporated into and be made part of this Protocol and apply *mutatis mutandis* between the parts of the single customs territory.



3. The rules set out in this Annex shall not preclude prohibitions or restrictions on imports, exports or goods in transit, where such prohibitions or restrictions are justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, the protection of industrial or commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the parts of the single customs territory.

4. Nothing in this Annex shall be construed:

- (a) to require the Union or the United Kingdom to furnish or allow access to any information, the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent the Union or the United Kingdom from taking any action which it considers necessary for the protection of its essential security interests:
  - (i) connected with the production of or trade in arms, munitions or war material or relating to such production of or trade in other goods and materials as is carried out directly or indirectly for the purpose of provisioning a military establishment;
  - (ii) relating to fissionable and fusionable materials or the materials from which they are derived; or
  - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent the Union or the United Kingdom from taking any action for the purpose of maintaining international peace and security.

#### Article 3

#### **Customs Tariff applicable to trade with third countries**

1. The United Kingdom shall align the tariffs and rules applicable in its customs territory with:
  - (a) the Union's Common Customs Tariff, as set out in Article 56(2) of Regulation (EU) No 952/2013;
  - (b) the Union's rules on the origin of goods, as set out in Chapter 2 of Title II of Regulation (EU) No 952/2013; and
  - (c) the Union's rules on the value of goods for customs purposes, as set out in Chapter 3 of Title II of Regulation (EU) No 952/2013.
2. Under no circumstances may the United Kingdom:
  - (a) apply to its customs territory a customs tariff which is lower than the Common Customs Tariff for any good or import from any third country; or
  - (b) apply or grant in its customs territory tariff preferences to any good on the basis of rules of origin that are different from those governing the granting of such preferences to the same good by the Union in its customs territory.
3. The United Kingdom may not, without prior agreement in the Joint Committee, apply or grant in its customs territory any quotas, tariff-rate quotas or duty suspensions.
4. The United Kingdom shall be informed of any decision taken by the Union to amend the Common Customs Tariff, to suspend or reintroduce duties and any decision concerning quotas, tariff-rate quotas or duty suspensions in sufficient time for it to align itself with that decision. If necessary, consultations may be held in the Joint Committee.

#### Article 4

#### **Commercial policy**

1. The single customs territory shall comply with the relevant provisions of Article XXIV of the GATT 1994. To this end, the United Kingdom shall harmonise the commercial policy applicable to its customs territory with the common commercial policy of the Union to the extent necessary to give effect to Article 6(1) of this Protocol and Article 3 of this Annex, and by applying regulations of commerce other than duties, in particular measures falling under Article XI:1 of the GATT 1994, which are substantially the same as those of the Union.

2. The United Kingdom shall ensure that, for the products covered by Article 6(1) of this Protocol, its Schedules of Concessions referred to in Article II of the GATT 1994 are fully aligned with those of the Union, and commitments on tariff-rate quotas are compatible with those of the Union and comply with the provisions of Article 3 of this Annex. The Union and the United Kingdom agree to cooperate on WTO matters on the apportionment of WTO tariff-rate quotas and to the extent necessary for the functioning of the single customs territory.

3. The Union's trade defence regime, as well as the Union's Generalised Scheme of Preferences ('GSP'), shall cover both parts of the single customs territory. The Union shall consult the United Kingdom on any trade defence measures or actions under the GSP regime which it considers taking. At least 6 months before the end of the transition period, the Joint Committee shall set up the procedures for the application of this paragraph.

#### *Article 5*

### **Administrative cooperation**

1. In addition to the specific cooperation provided for in Annex 3 to this Protocol, the administrative authorities of the Union, including its Member States, and of the United Kingdom responsible for implementing the provisions of this Annex shall provide each other with mutual administrative assistance so as to ensure compliance with those provisions for trade in goods between the parts of the single customs territory or with third countries.

2. At least 6 months before the end of the transition period, the Joint Committee shall adopt the appropriate provisions on mutual administrative assistance referred to in paragraph 1, including as regards the recovery of debts.

#### *Article 6*

### **Specific remedies**

1. By way of derogation from Articles 170 to 179 of the Withdrawal Agreement, Article 6(1) of this Protocol and Article 2 of this Annex, in case of non-compliance by the United Kingdom with the obligations set out in Articles 1, 3 and 4 of this Annex with respect to goods and products from third countries, the Union may, where it considers it necessary to protect the integrity of the single market, impose tariffs or other restrictions on the movement of the relevant goods into or out of the customs territory of the Union. These goods shall not be considered as being within the scope of this Annex, as set out in Article 1(1).

2. Where the Union has made a finding, based on objective information, of the existence of an error in the customs territory of the United Kingdom in the implementation of Annex 3 to this Protocol, and that this error leads to consequences in terms of import duties, the Union shall request the Joint Committee to determine the appropriate measures with a view to resolving the situation.

3. Part Six of the Withdrawal Agreement shall apply to any dispute relating to the application of this Article.

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## ANNEX 3

*Article 1***Application of Customs Codes**

Without prejudice to the provisions set out in Annex 2 to this Protocol, the Union Customs Code and any other measures and controls which are applicable in the customs territory of the Union, and the United Kingdom Taxation (Cross-border Trade) Act 2018 and its implementing provisions, as well as other relevant legislation which is applicable in the customs territory of the United Kingdom, shall apply in trade in goods between the two parts of the single customs territory under the conditions laid down in this Protocol and this Annex.

*Article 2***Formalities in respect of point (c) of Article 1(1) of Annex 2**

1. For the implementation of point (c) of Article 1(1) of Annex 2 to this Protocol, import formalities shall be considered as having been complied with in the exporting part of the single customs territory by the validation of the document necessary to prove that the good is within the scope of Annex 2, as set out in Article 1(1) thereof.
2. The validation referred to in paragraph 1 shall cause the customs duties or charges having equivalent effect, where such duties or charges are payable on the goods concerned or on the third-country products used in their manufacture in accordance with Article 3 of Annex 2 to this Protocol, to be levied in the exporting part of the single customs territory. It shall also give rise to the application of the commercial policy measures described in Article 4 of Annex 2 and to which the goods may be subject.
3. The moment when the customs duties or charges having equivalent effect referred to in paragraph 2 are to be levied shall be deemed to be the moment when the competent customs authorities accept the export declaration relating to the goods in question.
4. The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

*Article 3***Documentary evidence**

Without prejudice to Article 5, proof that a good is within the scope of Annex 2 to this Protocol, as set out in Article 1(1) thereof, shall be provided by documentary evidence issued at the exporter's request by the customs authorities in the parts of the single customs territory.

*Article 4***A. UK. movement certificate**

1. The documentary evidence referred to in Article 3 shall be the A. UK. movement certificate. The Union shall draw up the specimen of the A. UK. movement certificate and explanatory notes and inform the Joint Committee thereof. The use of that specimen shall be mandatory.
2. The A. UK. movement certificate may be used only where:
  - (a) the goods have not, after exportation and prior to being declared for importation, been altered, transformed in any way or subjected to operations other than to preserve them in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing part of the single customs territory;
  - (b) the goods have been stored or exhibited in a third country provided that the goods remain under customs supervision in that third country.
3. Without prejudice to paragraph 2, the splitting of consignments may take place in a third country if it is carried out by the exporter or under its responsibility and provided that they remain under customs supervision in that third country.

4. Paragraph 2 shall be considered to be complied with unless the customs authorities in the importing part of the single customs territory have reason to believe the contrary. In such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means.
5. An A. UK. movement certificate shall be endorsed by the customs authorities in the exporting part of the single customs territory when goods to which it relates are exported. It shall be made available to the exporter as soon as the actual exportation has been effected or ensured.
6. An A. UK. movement certificate may be endorsed only where it can serve as the documentary evidence required for the purpose of determining that a good is within the scope of Annex 2 to this Protocol, as set out in Article 1(1) thereof.
7. The exporter applying for the issue of an A. UK. movement certificate shall be prepared to submit at any time, at the request of the customs authorities in the exporting part of the single customs territory where the A. UK. movement certificate is issued, all appropriate documents proving the status of the products concerned as well as the fulfilment of the other requirements of this Protocol and of Annex 2 to this Protocol.
8. The issuing customs authorities shall take any steps necessary to verify the status of the products and the fulfilment of the other requirements of this Protocol and of this Annex. For this purpose, they shall have the right to call for any reasonable evidence and to carry out any control considered appropriate. The issuing customs authorities shall also ensure that the certificates are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.
9. An A. UK. movement certificate must be submitted, within four months of the date of issue by the customs authorities in the exporting part of the single customs territory, to the customs authorities in the importing part of the single customs territory.
10. A. UK. movement certificates submitted to the customs authorities in the importing part of the single customs territory after the final date for presentation specified in paragraph 9 may be accepted where the failure to submit these documents by the final date set is due to exceptional circumstances.
11. In other cases of belated presentation, the customs authorities in the importing part of the single customs territory shall accept A. UK. movement certificates where the related goods were presented to those authorities before the final date for presentation specified in paragraph 9.

#### *Article 5*

##### **A. UK. movement certificates issued retrospectively**

1. Notwithstanding Article 4(5), an A. UK. movement certificate may exceptionally be issued after the actual exportation has been effected or ensured of the goods to which it relates if:
  - (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
  - (b) it is demonstrated to the satisfaction of the customs authorities that an A. UK. movement certificate was issued but was not accepted at importation for technical reasons.
2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the A. UK. movement certificate relates, and state the reasons for his request.
3. The customs authorities may issue an A. UK. movement certificate retrospectively only where the customs authorities are satisfied a certificate has been applied for in accordance with the provisions of this Article.

#### *Article 6*

##### **Submission of A. UK. movement certificates**

1. A. UK. movement certificates shall be submitted to customs authorities in the importing part of the single customs territory in accordance with the procedures laid down in that part of the single customs territory. Those authorities may require a translation of a certificate. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the goods are within the scope of Annex 2 to this Protocol, as set out in Article 1(1) thereof.

2. The discovery of slight discrepancies between the statements made in the A.UK. movement certificate and those made in the document submitted to the customs authorities for the purpose of carrying out the import formalities for the goods shall not ipso facto render the certificates null and void if it is duly established that the certificates correspond to the goods presented.

3. Obvious formal errors such as typing errors on A. UK. movement certificates should not cause those certificates to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in these certificates.

#### *Article 7*

### **Replacement of A. UK. movement certificates**

When goods are placed under the control of a customs office in either part of the single customs territory, it shall be possible to replace the original A. UK. movement certificate by one or more A. UK. movement certificates for the purpose of sending all or some of these goods elsewhere within the single customs territory. The replacement A. UK. movement certificate(s) shall be issued by the customs office under whose control the products are placed.

#### *Article 8*

### **Administrative cooperation**

1. The customs authorities of the Member States and of the United Kingdom shall provide each other, through the European Commission, with specimen impressions of stamps used in their customs offices for the issue of A. UK. movement certificates and with the addresses of the customs authorities responsible for verifying those certificates.

2. In order to ensure the proper application of this Protocol, the Union and United Kingdom shall assist each other, through the competent customs administrations, in checking the authenticity of A. UK. movement certificates and the correctness of the information given in them.

#### *Article 9*

### **Verification of A. UK. movement certificates**

1. Subsequent verifications of A. UK. movement certificates shall be carried out at random or whenever the customs authorities in the importing part of the single customs territory have reasonable doubts as to the authenticity of the certificates, the status of the products concerned or the fulfilment of the other requirements of this Protocol and its Annexes, providing such verification is sought no later than 3 years after the issuing of the A. UK. movement certificate by the customs authorities in the exporting part of the single customs territory.

2. For the purposes of the provisions of paragraph 1, the customs authorities in the importing part of the single customs territory shall send the A. UK. movement certificate to the customs authorities in the exporting part of the single customs territory, and the invoice, if it has been submitted, or a copy of these documents, giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the A. UK. movement certificate is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authorities in the exporting part of the single customs territory. For this purpose, they shall have the right to call for any reasonable evidence and to carry out any inspection of the exporter's accounts or any other check that they consider appropriate.

4. If the customs authorities in the importing part of the single customs territory decide to refuse for the products concerned, the treatment provided for in Annex 2 while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The customs authorities requesting the verification shall be informed of the results of this verification within a maximum of 10 months. These results must indicate clearly whether the documents are authentic and whether the products concerned were within the scope of Annex 2 to this Protocol, as set out in Article 1(1) thereof, and fulfil the other requirements of this Protocol and its Annexes.

6. If, in cases of reasonable doubt, there is no reply within 10 months or the reply does not contain sufficient information to determine the authenticity of the document in question or the true status of the product, the requesting customs authorities shall, except in exceptional circumstances, refuse the treatment provided for in this Protocol and its Annexes.

*Article 10***Disputes relating to the verification procedure**

1. Where disputes arise in relation to the verification procedures set out in Article 9 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification, or where they raise a question as to the interpretation of this Annex, those disputes shall be submitted to the Joint Committee.
2. At the request of the Union or the United Kingdom, consultations shall be held in the Joint Committee within a period of 90 days from the date of submission referred to in paragraph 1, with a view to resolving those differences. The period for consultation may be extended on a case by case basis by mutual written agreement. After this period the customs authority of the importing part of the single customs territory may make its decision on the status of the goods concerned.
3. In all cases, disputes between the importer and the customs authorities of the importing part of the single customs territory shall be settled under the legislation of that part of the single customs territory.

*Article 11***Penalties**

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining the treatment provided for in this Protocol and Annex 2 to this Protocol. Such penalties shall be effective, proportionate and dissuasive.

*Article 12***Provisions concerning goods brought by travellers**

Provided that they are not intended for commercial use, goods brought by travellers from one part of the single customs territory to the other part of the single customs territory shall benefit from the treatment provided for in Annex 2 to this Protocol without being the subject of the certificate provided for in Articles 3 to 11 of this Annex when those goods are declared as goods within the scope of Annex 2, as set out in Article 1(1) thereof, and there is no doubt as to the accuracy of the declaration.

The Joint Committee shall regularly discuss the implementation of this Article, and where appropriate, adopt the necessary measures for its proper application.

*Article 13***Postal consignments**

Postal consignments, including postal packages, shall benefit from the treatment provided for in Annex 2 to this Protocol without being the subject of the certificate provided for in Articles 3 to 11 of this Annex, provided there is no indication on the packing or on the accompanying documents that the goods contained therein are not within the scope of Annex 2 to this Protocol, as set out in Article 1(1) thereof. Such indication shall consist of a label to be affixed in all cases of this kind by the competent authorities of the exporting part of the single customs territory.

The Union shall draw up the specimen of the label referred to in the first subparagraph and inform the Joint Committee thereof. The use of the label based on that specimen shall be mandatory.

The Joint Committee shall regularly discuss the implementation of this Article, and where appropriate, adopt the necessary measures for its proper application.

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## ANNEX 4

## PART ONE

**TAXATION***Article 1***Taxation**

1. The Union and the United Kingdom recognise and commit themselves to implementing the principles of good governance in the area of taxation, including the global standards on transparency and exchange of information, fair taxation, and the OECD standards against Base Erosion and Profit Shifting (BEPS). The Union and the United Kingdom will promote good governance in tax matters, improve international cooperation in the tax area and facilitate the collection of tax revenues.

2. In the context of the Union's and the United Kingdom's commitments set out in paragraph 1, the United Kingdom shall continue to apply provisions of its domestic law transposing the following provisions of Union law, as applicable at the end of the transition period:

- (a) Council Directive 2011/16/EU <sup>(1)</sup>;
- (b) Council Directive (EU) 2016/1164 <sup>(2)</sup>; and
- (c) Article 89 of Directive 2013/36/EU of the European Parliament and of the Council <sup>(3)</sup>.

3. The Union and the United Kingdom, reflecting the direction set by the G20-OECD BEPS Action Plan, reaffirm their commitment to curb harmful tax measures.

In this context, the United Kingdom reaffirms its commitment to the Code of Conduct for business taxation set out in the conclusions of the Council of Ministers of 1 December 1997 as reflected in the mandate and criteria established by those conclusions, as well as the guidance relating to the Code of Conduct, as applicable at the end of the transition period.

4. The Joint Committee may determine the measures necessary for the implementation of paragraph 2 and shall discuss all matters related to the implementation of paragraph 3.

5. Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of paragraphs 1, 3 and 4 of this Article.

## PART TWO

**ENVIRONMENTAL PROTECTION***Article 2***Non-regression in the level of environmental protection**

1. With the aim of ensuring the proper functioning of the single customs territory, the Union and the United Kingdom shall ensure that the level of environmental protection provided by law, regulations and practices is not reduced below the level provided by the common standards applicable within the Union and the United Kingdom at the end of the transition period in relation to access to environmental information, public participation and access to justice in environmental matters; environmental impact assessment and strategic environmental assessment; industrial emissions; air emissions and air quality targets and ceilings; nature and biodiversity conservation; waste management; the protection and preservation of the aquatic environment; the protection and preservation of the marine environment; the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release and disposal of chemical substances; and climate change.

<sup>(1)</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

<sup>(2)</sup> Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1).

<sup>(3)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

2. Reflecting their common principles at the end of the transition period and their commitment to the 1992 Rio Declaration on Environment and Development, in giving effect to the obligations set out in this Article the Union and the United Kingdom shall respect the following principles in their respective environmental legislation:

- (a) the precautionary principle;
- (b) the principle that preventive action should be taken;
- (c) the principle that environmental damage should as a priority be rectified at source; and
- (d) the 'polluter pays' principle.

3. Having regard to the common standards referred to in paragraph 1, the Joint Committee shall adopt decisions laying down minimum commitments for:

- (a) the reduction of national emissions of certain atmospheric pollutants;
- (b) the maximum sulphur content of marine fuels which may be used in the territorial seas, exclusive economic zones, including in the SO<sub>x</sub>-Emission Control Area (SO<sub>x</sub>-ECA) designated in the North Sea and Baltic Sea area, and in the ports of the Member States of the Union and of the United Kingdom; and
- (c) those best available techniques, including emission limit values, in relation to industrial emissions.

These decisions shall apply as from the end of the transition period.

4. The Union and the United Kingdom shall take the necessary measures to meet their respective commitments to international agreements to address climate change, including those which implement the United Nations Framework Conventions on Climate Change, such as the Paris Agreement of 2015.

5. The United Kingdom shall implement a system of carbon pricing of at least the same effectiveness and scope as that provided by Directive 2003/87/EC of the European Parliament and of the Council <sup>(4)</sup>.

6. The Union and the United Kingdom reaffirm their commitment to implement effectively the multilateral environmental agreements to which they are party in their laws, regulations and practices.

7. Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of this Article.

### Article 3

#### **Monitoring and enforcement related to environmental protection**

1. Noting that within the Union the effective application of Union law reflecting the common standards referred to in Article 2(1) is ensured by the Commission and the Court of Justice of the European Union acting under the Treaties, the United Kingdom shall ensure effective enforcement of Article 2 and of its laws, regulations and practices reflecting those common standards, without prejudice to Article 2(7).

The United Kingdom shall ensure that administrative and judicial proceedings are available in order to permit effective and timely action by public authorities and members of the public against violations of its laws, regulations and practices, and provide for effective remedies, including interim measures, ensuring that any sanctions are effective, proportionate and dissuasive and have a real and deterrent effect.

2. The United Kingdom shall implement a transparent system for the effective domestic monitoring, reporting, oversight and enforcement of its obligations pursuant to this Article and to Article 2 by an independent and adequately resourced body or bodies ('the independent body').

The independent body shall have powers to conduct inquiries on its own initiative concerning alleged breaches by public bodies and authorities of the United Kingdom, and to receive complaints for the purposes of conducting such inquiries. It shall have all powers necessary to carry out its functions, including the power to request information. The independent body shall have the right to bring a legal action before a competent court or tribunal in the United Kingdom in an appropriate judicial procedure, with a view to seeking an adequate remedy.

<sup>(4)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).



## PART THREE

**LABOUR AND SOCIAL STANDARDS***Article 4***Non-regression of labour and social standards**

1. With the aim of ensuring the proper functioning of the single customs territory, the Union and the United Kingdom shall ensure that the level of protection provided for by law, regulations and practices is not reduced below the level provided by the common standards applicable within the Union and the United Kingdom at the end of the transition period in the area of labour and social protection and as regards fundamental rights at work, occupational health and safety, fair working conditions and employment standards, information and consultation rights at company level, and restructuring.
2. Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of this Article.

*Article 5***Multilateral labour and social standards and agreements**

1. Taking into account the importance of international cooperation and agreements on labour affairs and of high levels of labour and social protection coupled with their effective protection, the Union and the United Kingdom shall protect and promote social dialogue on labour matters among workers and employers, and their respective organisations, and governments.
2. The Union and the United Kingdom reaffirm their commitment to implement effectively in their laws, regulations and practices the International Labour Organisation Conventions, and the provisions of the Council of Europe European Social Charter, as ratified and accepted by the United Kingdom and the Member States respectively.
3. The Union and the United Kingdom shall exchange information on the respective situations and advances of the Member States and of the United Kingdom regarding the ratification of International Labour Organisation Conventions that are classified as up to date by the International Labour Organisation and of the revised European Social Charter and related Protocols.
4. Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of this Article.

*Article 6***Monitoring and enforcement of labour and social standards**

Noting that within the Union the effective application of Union law reflecting the common standards referred to in Article 4(1) is ensured by the Commission and the Court of Justice of the European Union acting under the Treaties, the United Kingdom shall ensure effective enforcement of Article 4 and of its laws, regulations and practices reflecting those common standards in its whole territory, without prejudice to Article 4(2).

The United Kingdom shall maintain an effective system of labour inspections, ensure that administrative and judicial proceedings are available in order to permit effective action against violations of its laws, regulations and practices, and provide for effective remedies, ensuring that any sanctions are effective, proportionate and dissuasive and have a real and deterrent effect.

## PART FOUR

**STATE AID***Article 7***State aid**

1. With a view to preserving a robust and comprehensive framework for State aid control that prevents undue distortions of trade and competition, the Union State aid law provisions listed in Annex 8 to this Protocol shall apply to the United Kingdom, in respect of measures which affect that trade between the parts of the single customs territory which is subject to Annex 2. However, in respect of such measures of the United Kingdom authorities, references to the European Commission in those provisions of Union law shall be read as referring to the independent authority referred to in Article 9.

2. Notwithstanding paragraph 1, the provisions of Union law referred to in that paragraph shall not apply with respect to measures of the United Kingdom authorities to support the production of and trade in agricultural products in the customs territory of the United Kingdom up to a determined maximum overall annual level of support, and provided that a determined minimum percentage of that exempted support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture. The determination of the maximum exempted overall annual level of support and the minimum percentage shall be set by the Joint Committee and governed by the procedures set out in Article 8 of this Annex.
3. This Article is without prejudice to Article 12 of this Protocol and to Article 14(4) and (5) of this Protocol as regards Article 12 thereof.

#### *Article 8*

##### **Procedures referred to in Article 7(2)**

The Joint Committee shall determine the initial maximum exempted overall annual level of support and the initial minimum percentage referred to in Article 7(2), taking into account the most recent information available. The initial maximum exempted overall annual level of support shall be informed by the design of the United Kingdom's future agricultural support scheme as well as by the annual average of the total amount of expenditure incurred in the customs territory of the United Kingdom under the Common Agricultural Policy under the current MFF 2014-2020. The initial minimum percentage shall be informed by the design of the United Kingdom's agricultural support scheme as well as by the percentage to which the overall expenditure under the Common Agricultural Policy in the Union complied with the provisions of Annex 2 to the WTO Agreement on Agriculture as notified for the period concerned.

The Joint Committee shall adjust the level of support and percentage referred to in the first paragraph, informed by the design of the United Kingdom's agricultural support scheme, to any variation in the overall amount of support available under the Common Agricultural Policy in the Union in each future Multiannual Financial Framework.

If the Joint Committee fails to determine the initial level of support and percentage in accordance with the first paragraph, or fails to adjust the level of support and percentage in accordance with the second paragraph, by the end of the transition period or within one year of the entry into force of a future Multiannual Financial Framework, as the case may be, the application of Article 7(2) shall be suspended until the Joint Committee has determined or adjusted the level of support and percentage.

#### *Article 9*

##### **Independent authority**

1. The United Kingdom shall establish or maintain an operationally independent authority ('the independent authority'). In performing its duties and exercising its powers, the independent authority shall have the necessary guarantees of independence from political or other external influence and shall act impartially.
2. In respect of measures of the United Kingdom authorities that are subject to Article 7(1), the independent authority shall have powers and functions equivalent to those of the European Commission acting under the Union State aid law provisions listed in Annex 8 to this Protocol. The independent authority shall be appropriately equipped with the resources necessary for the full application and the effective enforcement, in accordance with Article 7(1), of the Union State aid law provisions listed in Annex 8 to this Protocol. These resources include human, technical and financial resources, premises and infrastructure.
3. Decisions of the independent authority shall produce in respect of and in the United Kingdom the same legal effects as those which comparable decisions of the European Commission acting under the Union State aid law provisions listed in Annex 8 to this Protocol produce within the Union and its Member States.

#### *Article 10*

##### **Cooperation**

1. With a view to ensuring consistent surveillance in the field of State aid throughout the single customs territory, the European Commission and the independent authority shall cooperate.

2. The European Commission and the independent authority shall:
  - (a) exchange information and views on the implementation, application and interpretation of the Union State aid law provisions listed in Annex 8 to this Protocol, and
  - (b) provide on a case-by-case basis information and exchange views on individual State aid cases which affect that trade between the parts of the single customs territory which is subject to Annex 2 to this Protocol. The European Commission and the independent authority shall exchange this information taking into account the limitations imposed by the requirements of professional and business secrecy.
3. If the independent authority decides to open the procedure referred to in the first and second subparagraphs of Article 108(2) of the TFEU in respect of measures of the United Kingdom authorities that are subject to Article 7(1), the independent authority shall communicate that decision to the European Commission and give it the opportunity to submit its comments in accordance with the applicable time limits set in Council Regulation (EU) 2015/1589 <sup>(3)</sup>.
4. The independent authority shall consult the European Commission on all draft decisions it intends to adopt in accordance with Article 7(1) and Article 9. The European Commission shall have up to 3 months to communicate its opinion, and the independent authority shall take the utmost account of that opinion before adopting the decision. In cases of urgency, the independent authority may invite the Commission to communicate its opinion as soon as possible.

Where the European Commission considers, during the period referred to in the first subparagraph, that it requires further information before it is able to formulate its opinion, it may address a request for additional information to the independent authority. That period shall be suspended from the date of the European Commission's request, and shall start afresh from the date of receipt of the independent authority's response.

The independent authority shall not adopt the draft decision until the European Commission has communicated its opinion in accordance with the first subparagraph.

#### Article 11

### Courts and tribunals of the United Kingdom

1. Noting that the Court of Justice of the European Union has jurisdiction under the Treaties in respect of acts of the European Commission in the area of State aid, in respect of measures of the United Kingdom authorities that are subject to Article 7(1) of this Annex, the United Kingdom shall ensure that courts or tribunals in the United Kingdom are competent to:
  - (a) review and enforce compliance by the United Kingdom's authorities with the obligation under Article 108(3) of the TFEU to notify and not to put a proposed measure in effect until the independent authority has authorised it;
  - (b) review the compliance of the decisions taken by the independent authority with the Union State aid law provisions listed in Annex 8 to this Protocol;
  - (c) review and enforce compliance with a decision of the independent authority by the United Kingdom's authorities, and impose penalties in case of non-compliance;
  - (d) decide on actions for a failure of the independent authority to act, and order the independent authority to act; and
  - (e) decide on actions for private damages and award such damages.
2. The European Commission and interested parties shall have legal standing before courts or tribunals in the United Kingdom to bring such cases.

The term 'interested parties' in the first subparagraph shall have the same meaning as it does under Union State aid law provisions listed in Annex 8 to this Protocol.

3. The European Commission shall have the right to intervene in cases referred to in paragraph 1 brought before courts or tribunals in the United Kingdom by the independent authority or any interested party.

#### Article 12

### Transparency

Without prejudice to the Union State aid law provisions listed in Annex 8 to this Protocol, the United Kingdom shall maintain a system of transparency of aid granted for individual State aid grants above EUR 500 000.

<sup>(3)</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

*Article 13***Consultations**

1. If the Union considers that the application or implementation by the United Kingdom of Article 7 and Articles 9 to 12 threatens to seriously undermine the equal conditions of competition between the parts of the single customs territory, it may request a consultation within the Joint Committee with a view to finding a commonly acceptable solution.
2. The consultation shall take place on the basis of a written request that includes an explanation of the Union's reasons for requesting the consultation. A meeting of the Joint Committee shall be held within 30 days of the request.
3. If a commonly agreed solution has not been found in the Joint Committee within 30 days of the meeting of the Joint Committee referred to in paragraph 2, the Union may adopt interim measures in accordance with Article 14.

*Article 14***Interim measures**

1. The Union shall be entitled, after giving notice to the United Kingdom, to take appropriate remedial measures:
  - (a) in accordance with Article 13(3); or
  - (b) where the Union considers that the United Kingdom has failed to comply with its obligations under Article 7 and Articles 9 to 12 of this Annex and the Union has commenced consultation in the Joint Committee in accordance with Article 169 of the Withdrawal Agreement, provided that the Union considers that the United Kingdom's failure to comply threatens to undermine the equal conditions of competition between the parts of the single customs territory.
2. In the case referred to in point (b) of paragraph 1, the appropriate remedial measures taken by the Union may take effect at the earliest 30 days after the Union has given the United Kingdom notice.
3. The appropriate remedial measures taken by the Union shall cease to apply when:
  - (a) the Union is satisfied that the risk to the equal conditions of competition between the parts of the single customs territory has been remedied; or
  - (b) in cases submitted to arbitration in accordance with Article 170 of the Withdrawal Agreement, the arbitration panel has decided that the United Kingdom has not failed to comply with its obligations under Article 7 and Articles 9 to 12 of this Annex.

*Article 15***Coordination**

1. The exercise of its powers under Article 9 of this Annex by the independent authority in respect of measures of the United Kingdom authorities that are subject to Article 7(1) of this Annex is without prejudice to the European Commission's powers under Article 14(4) of this Protocol as regards Article 12 thereof.

In particular:

- (a) a decision by the independent authority shall not give rise to legitimate expectations under Union law as regards the application of Article 12 of this Protocol;
  - (b) where the European Commission, acting under Article 12 of this Protocol, and the independent authority, acting under Article 7(1) and Article 9 of this Annex, take decisions concerning the same measure of the United Kingdom authorities, the decision of the independent authority is without prejudice to the legal effects in the United Kingdom of the decision of the European Commission pursuant to Article 14(5) of this Protocol.
2. Where the independent authority learns, by any means, of a measure by the United Kingdom authorities that may be subject to both Article 12(1) of this Protocol and Article 7(1) of this Annex, it may informally consult the European Commission on whether the latter considers the measure in question to be subject to Article 12(1) of this Protocol.

## PART FIVE

**COMPETITION***Article 16***Principles**

The Union and the United Kingdom recognise the importance of free and undistorted competition in their trade and investment relations. The Union and the United Kingdom acknowledge that anti-competitive business practices, concentrations of undertakings and State interventions have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

This Part is without prejudice to the specific provisions applicable in the Union to agricultural products in accordance with Article 42 of the TFEU, and equivalent laws, regulations and practices applicable in the United Kingdom.

*Article 17***Agreements between undertakings**

1. The following shall be prohibited insofar as they may affect trade between the Union and the United Kingdom: all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall automatically be void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

*Article 18***Abuse of a dominant position**

Any abuse by one or more undertakings of a dominant position in the territories of the Union and the United Kingdom as a whole or in a substantial part thereof shall be prohibited, insofar as it may affect trade between the Union and the United Kingdom.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;

- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

#### Article 19

### Concentrations of undertakings

Concentrations between undertakings which are notifiable to the United Kingdom or the Union or to one or more of its Member States and which threaten to significantly impede effective competition or to substantially lessen competition, in particular as a result of the creation or strengthening of a dominant position, shall be declared incompatible, insofar as they affect trade between the Union and the United Kingdom, unless remedies are offered or imposed to address adequately the identified competition concerns.

#### Article 20

### Public undertakings, undertakings granted special or exclusive rights or privileges, and designated monopolies

1. In the case of public undertakings and undertakings to which the Member States or the United Kingdom grant special or exclusive rights, the Union and the United Kingdom shall ensure that there are neither enacted nor maintained in force any measures contrary to the rules contained in Articles 17, 18 and 19.
2. Undertakings entrusted with the operation of services of general economic interest or having the character of revenue-producing monopoly shall be subject to the rules contained in Articles 17, 18 and 19, insofar as the application of those rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union and the United Kingdom.

#### Article 21

### Interpretation

The Union and the United Kingdom shall implement and apply Articles 17 to 20 of this Annex, insofar as they reflect concepts of Union law, using as sources of interpretation the criteria arising from the application of Articles 101, 102 and 106 TFEU, as well as all relevant acts adopted by the institutions, bodies, offices or agencies of the Union, including frameworks, guidelines, notices and other acts applicable in the Union.

#### Article 22

### Implementation

1. The Union and the United Kingdom shall take all appropriate measures to ensure that their respective competition rules address in an effective manner all of the practices set out in Articles 17 to 20.

In particular, the United Kingdom shall adopt or maintain a competition law which addresses, in an effective manner, all of the practices set out in Article 17 to 20.

2. The Union and the United Kingdom shall enforce the rules referred to in the first subparagraph of paragraph 1 in their respective territories.

For the purposes of the first subparagraph, the United Kingdom shall establish or maintain an operationally independent authority or authorities ('the independent authority'). The independent authority shall have the necessary guarantees of independence from political or other external influence and shall be able to perform its duties and exercise its powers impartially. It shall be appropriately equipped with all the powers and resources necessary for the full application and the effective enforcement of the competition law referred to in paragraph 1.

3. The United Kingdom shall apply the competition law referred to in paragraph 1 in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the undertakings concerned, irrespective of their nationality or ownership status.

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*Article 23***Cooperation**

1. In order to enhance effective competition enforcement, the Union and the United Kingdom acknowledge that it is in their common interest to promote cooperation with regard to competition policy development and the investigation of antitrust and merger cases.
2. For the purposes of paragraph 1, the competition authorities of the Union and the United Kingdom will endeavour to coordinate, where this is possible and appropriate, their enforcement activities relating to the same or related cases.
3. To facilitate the cooperation referred to in paragraph 1, the competition authorities of the Union and the United Kingdom may exchange information.
4. In implementing the objectives of this Article, the Union and the United Kingdom, or the competition authorities of the Union and the United Kingdom, may enter into a separate agreement or agree upon a separate framework regarding cooperation between the competition authorities.

*Article 24***Monitoring and dispute settlement**

1. Noting that in the Union effective enforcement is ensured by the Commission and the Court of Justice acting under the Treaties, the United Kingdom shall ensure effective enforcement of the provisions in Articles 17 to 20 and shall not reduce the effectiveness of public and private enforcement of its competition laws, regulations and practices. In particular, the United Kingdom shall ensure that administrative and judicial proceedings are available in order to permit effective and timely action against violations, and provide for effective remedies, including interim measures, ensuring that any sanctions are effective, proportionate and dissuasive and have a real and deterrent effect.
2. Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of Articles 16 to 23 of this Annex.

## PART SIX

**STATE-OWNED UNDERTAKINGS, UNDERTAKINGS GRANTED SPECIAL RIGHTS AND PRIVILEGES, AND DESIGNATED MONOPOLIES***Article 25***Neutral regulation**

1. The Union and the United Kingdom shall respect and make best use of relevant international standards including, *inter alia*, the OECD Guidelines on Corporate Governance of State-Owned Undertakings.
  2. Any regulatory body or function that is established or maintained in the Union or the United Kingdom shall:
    - (a) be independent from and not accountable to any of the undertakings that it regulates, in order to ensure the effectiveness of the regulatory function, and
    - (b) act impartially in like circumstances with respect to all undertakings that it regulates.
  3. The Union and the United Kingdom shall ensure the enforcement of laws and regulations in a consistent and non-discriminatory manner.
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## ANNEX 5

## PROVISIONS OF UNION LAW REFERRED TO IN ARTICLES 6(2) AND 10

1. General customs aspects <sup>(1)</sup>

- Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code <sup>(2)</sup>
- Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters <sup>(3)</sup>
- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures <sup>(4)</sup>

## 2. Protection of the Union's financial interests

For the purpose of the application of the acts listed in this section, the proper collection of customs duties by the United Kingdom in respect of Northern Ireland shall be considered as part of the protection of the financial interests of the Union.

- Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 <sup>(5)</sup>
- Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests <sup>(6)</sup>

## 3. Trade statistics

- Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91 <sup>(7)</sup>
- Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 <sup>(8)</sup>

## 4. General trade related aspects

- 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 <sup>(9)</sup>
- Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports <sup>(10)</sup>
- Regulation (EU) 2015/936 of the European Parliament and of the Council of 9 June 2015 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Union import rules <sup>(11)</sup>
- Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas <sup>(12)</sup>

<sup>(1)</sup> The headings and subheadings in this Annex are purely indicative.

<sup>(2)</sup> OJ L 269, 10.10.2013, p. 1.

<sup>(3)</sup> OJ L 82, 22.3.1997, p. 1.

<sup>(4)</sup> OJ L 84, 31.3.2010, p. 1.

<sup>(5)</sup> OJ L 248, 18.9.2013, p. 1.

<sup>(6)</sup> OJ L 312, 23.12.1995, p. 1.

<sup>(7)</sup> OJ L 102, 7.4.2004, p. 1.

<sup>(8)</sup> OJ L 152, 16.6.2009, p. 23.

<sup>(9)</sup> OJ L 303, 31.10.2012, p. 1.

<sup>(10)</sup> OJ L 83, 27.3.2015, p. 34.

<sup>(11)</sup> OJ L 160, 25.6.2015, p. 1.

<sup>(12)</sup> OJ L 130, 19.5.2017, p. 1.



- Council Regulation (EC) No 1215/2009 of 30 November 2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (Western Balkans) <sup>(13)</sup>
- Regulation (EU) 2017/1566 of the European Parliament and of the Council of 13 September 2017 on the introduction of temporary autonomous trade measures for Ukraine supplementing the trade concessions available under the Association Agreement <sup>(14)</sup>
- Obligations stemming from the international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly, insofar as they relate to trade in goods between the Union and third countries

#### 5. Trade defence instruments

- Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(15)</sup>
- Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union <sup>(16)</sup>
- Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports <sup>(17)</sup>
- Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries <sup>(18)</sup>
- Regulation (EU) 2015/476 of the European Parliament and of the Council of 11 March 2015 on the measures that the Union may take following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters <sup>(19)</sup>
- Regulation (EU) 2015/477 of the European Parliament and of the Council of 11 March 2015 on measures that the Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures <sup>(20)</sup>

#### 6. Regulations on bilateral safeguards

- Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization <sup>(21)</sup>
- Regulation (EU) 2015/1145 of the European Parliament and of the Council of 8 July 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Swiss Confederation <sup>(22)</sup>
- Regulation (EU) 2015/475 of the European Parliament and of the Council of 11 March 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Republic of Iceland <sup>(23)</sup>
- Regulation (EU) 2015/938 of the European Parliament and of the Council of 9 June 2015 on the safeguard measures provided for in the Agreement between the European Economic Community and the Kingdom of Norway <sup>(24)</sup>
- Regulation (EU) No 332/2014 of the European Parliament and of the Council of 11 March 2014 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part <sup>(25)</sup>

<sup>(13)</sup> OJ L 328, 15.12.2009, p. 1.

<sup>(14)</sup> OJ L 254, 30.9.2017, p. 1.

<sup>(15)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(16)</sup> OJ L 176, 30.6.2016, p. 55.

<sup>(17)</sup> OJ L 83, 27.3.2015, p. 16.

<sup>(18)</sup> OJ L 123, 19.5.2015, p. 33.

<sup>(19)</sup> OJ L 83, 27.3.2015, p. 6.

<sup>(20)</sup> OJ L 83, 27.3.2015, p. 11.

<sup>(21)</sup> OJ L 189, 27.6.2014, p. 50.

<sup>(22)</sup> OJ L 191, 17.7.2015, p. 1.

<sup>(23)</sup> OJ L 83, 27.3.2015, p. 1.

<sup>(24)</sup> OJ L 160, 25.6.2015, p. 57.

<sup>(25)</sup> OJ L 103, 5.4.2014, p. 10.

- Regulation (EU) 2015/752 of the European Parliament and of the Council of 29 April 2015 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part <sup>(26)</sup>
- Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part <sup>(27)</sup>
- Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other <sup>(28)</sup>
- Regulation (EU) 2016/400 of the European Parliament and of the Council of 9 March 2016 implementing the safeguard clause and the anti-circumvention mechanism provided for in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part <sup>(29)</sup>
- Regulation (EU) 2016/401 of the European Parliament and of the Council of 9 March 2016 implementing the anti-circumvention mechanism provided for in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part <sup>(30)</sup>
- Regulation (EU) 2015/941 of the European Parliament and of the Council of 9 June 2015 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part <sup>(31)</sup>
- Regulation (EU) 2015/940 of the European Parliament and of the Council of 9 June 2015 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, and for applying the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part <sup>(32)</sup>
- Regulation (EU) 2015/939 of the European Parliament and of the Council of 9 June 2015 on certain procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part <sup>(33)</sup>
- Regulation (EU) No 511/2011 of the European Parliament and of the Council of 11 May 2011 implementing the bilateral safeguard clause of the Free Trade Agreement between the European Union and its Member States and the Republic of Korea <sup>(34)</sup>
- Regulation (EU) 2017/355 of the European Parliament and of the Council of 15 February 2017 on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo \* of the other part <sup>(35)</sup>
- Regulation (EU) 2016/1076 of the European Parliament and of the Council of 8 June 2016 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, economic partnership agreements <sup>(36)</sup>

## 7. Others

- Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems <sup>(37)</sup>

<sup>(26)</sup> OJ L 123, 19.5.2015, p. 16.

<sup>(27)</sup> OJ L 17, 19.1.2013, p. 1.

<sup>(28)</sup> OJ L 17, 19.1.2013, p. 13.

<sup>(29)</sup> OJ L 77, 23.3.2016, p. 53.

<sup>(30)</sup> OJ L 77, 23.3.2016, p. 62.

<sup>(31)</sup> OJ L 160, 25.6.2015, p. 76.

<sup>(32)</sup> OJ L 160, 25.6.2015, p. 69.

<sup>(33)</sup> OJ L 160, 25.6.2015, p. 62.

<sup>(34)</sup> OJ L 145, 31.5.2011, p. 19.

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

<sup>(35)</sup> OJ L 57, 3.3.2017, p. 59.

<sup>(36)</sup> OJ L 185, 8.7.2016, p. 1.

<sup>(37)</sup> OJ L 157, 9.6.2006, p. 1.

## 8. Goods - general provisions

- Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services <sup>(38)</sup>, with the exception of provisions relating to rules on information society services
- Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council <sup>(39)</sup>
- Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 <sup>(40)</sup>
- Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC <sup>(41)</sup>
- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC <sup>(42)</sup>
- Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety <sup>(43)</sup>
- Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States <sup>(44)</sup>
- Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products <sup>(45)</sup>

## 9. Motor vehicles, including agricultural and forestry tractors

- Council Directive 70/157/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the permissible sound level and the exhaust system of motor vehicles <sup>(46)</sup>
- Regulation (EU) No 540/2014 of the European Parliament and of the Council of 16 April 2014 on the sound level of motor vehicles and of replacement silencing systems, and amending Directive 2007/46/EC and repealing Directive 70/157/EEC <sup>(47)</sup>
- Directive 2005/64/EC of the European Parliament and of the Council of 26 October 2005 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability and amending Council Directive 70/156/EEC <sup>(48)</sup>
- Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air conditioning systems in motor vehicles and amending Council Directive 70/156/EEC <sup>(49)</sup>
- Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information <sup>(50)</sup>
- Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) <sup>(51)</sup>

<sup>(38)</sup> OJ L 241, 17.9.2015, p. 1.

<sup>(39)</sup> OJ L 316, 14.11.2012, p. 12.

<sup>(40)</sup> OJ L 218, 13.8.2008, p. 30.

<sup>(41)</sup> OJ L 218, 13.8.2008, p. 82.

<sup>(42)</sup> OJ L 218, 13.8.2008, p. 21.

<sup>(43)</sup> OJ L 11, 15.1.2002, p. 4.

<sup>(44)</sup> OJ L 337, 12.12.1998, p. 8.

<sup>(45)</sup> OJ L 210, 7.8.1985, p. 29.

<sup>(46)</sup> OJ L 42, 23.2.1970, p. 16.

<sup>(47)</sup> OJ L 158, 27.5.2014, p. 131.

<sup>(48)</sup> OJ L 310, 25.11.2005, p. 10.

<sup>(49)</sup> OJ L 161, 14.6.2006, p. 12.

<sup>(50)</sup> OJ L 171, 29.6.2007, p. 1.

<sup>(51)</sup> OJ L 263, 9.10.2007, p. 1.

- Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC <sup>(52)</sup>
- Regulation (EC) No 78/2009 of the European Parliament and of the Council of 14 January 2009 on the type-approval of motor vehicles with regard to the protection of pedestrians and other vulnerable road users, amending Directive 2007/46/EC and repealing Directives 2003/102/EC and 2005/66/EC <sup>(53)</sup>
- Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor <sup>(54)</sup>
- Regulation (EC) No 79/2009 of the European Parliament and of the Council of 14 January 2009 on type-approval of hydrogen-powered motor vehicles, and amending Directive 2007/46/EC <sup>(55)</sup>
- Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC <sup>(56)</sup>
- Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles <sup>(57)</sup>
- Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC <sup>(58)</sup>
- Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emissions performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles <sup>(59)</sup>
- Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles <sup>(60)</sup>
- Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles <sup>(61)</sup>

#### 10. Lifting and mechanical handling appliances

- Council Directive 73/361/EEC of 19 November 1973 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the certification and marking of wire-ropes, chains and hooks <sup>(62)</sup>
- Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts <sup>(63)</sup>

#### 11. Gas appliances

- Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels <sup>(64)</sup>
- Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC <sup>(65)</sup>

<sup>(52)</sup> OJ L 151, 14.6.2018, p. 1.

<sup>(53)</sup> OJ L 35, 4.2.2009, p. 1.

<sup>(54)</sup> OJ L 200, 31.7.2009, p. 1.

<sup>(55)</sup> OJ L 35, 4.2.2009, p. 32.

<sup>(56)</sup> OJ L 188, 18.7.2009, p. 1.

<sup>(57)</sup> OJ L 60, 2.3.2013, p. 52.

<sup>(58)</sup> OJ L 123, 19.5.2015, p. 77.

<sup>(59)</sup> OJ L 140, 5.6.2009, p. 1.

<sup>(60)</sup> OJ L 145, 31.5.2011, p. 1.

<sup>(61)</sup> OJ L 60, 2.3.2013, p. 1.

<sup>(62)</sup> OJ L 335, 5.12.1973, p. 51.

<sup>(63)</sup> OJ L 96, 29.3.2014, p. 251.

<sup>(64)</sup> OJ L 167, 22.6.1992, p. 17.

<sup>(65)</sup> OJ L 81, 31.3.2016, p. 99.

## 12. Pressure vessels

- Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers <sup>(66)</sup>
- Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC <sup>(67)</sup>
- Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment <sup>(68)</sup>
- Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels <sup>(69)</sup>

## 13. Measuring instruments

- Directive 2009/34/EC of the European Parliament and of the Council of 23 April 2009 relating to common provisions for both measuring instruments and methods of metrological control <sup>(70)</sup>
- Council Directive 75/107/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to bottles used as measuring containers <sup>(71)</sup>
- Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products <sup>(72)</sup>
- Council Directive 80/181/EEC of 20 December 1979 on the approximation of the laws of the Member States relating to units of measurement and on the repeal of Directive 71/354/EEC <sup>(73)</sup>
- Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC <sup>(74)</sup>
- Directive 2011/17/EU of the European Parliament and of the Council of 9 March 2011 repealing Council Directives 71/317/EEC, 71/347/EEC, 71/349/EEC, 74/148/EEC, 75/33/EEC, 76/765/EEC, 76/766/EEC and 86/217/EEC regarding metrology <sup>(75)</sup>
- Directive 2014/31/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments <sup>(76)</sup>
- Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments <sup>(77)</sup>

## 14. Construction products, machinery, cableways, personal protective equipment

- Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC <sup>(78)</sup>
- Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC <sup>(79)</sup>
- Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC <sup>(80)</sup>

<sup>(66)</sup> OJ L 147, 9.6.1975, p. 40.

<sup>(67)</sup> OJ L 165, 30.6.2010, p. 1.

<sup>(68)</sup> OJ L 189, 27.6.2014, p. 164.

<sup>(69)</sup> OJ L 96, 29.3.2014, p. 45.

<sup>(70)</sup> OJ L 106, 28.4.2009, p. 7.

<sup>(71)</sup> OJ L 42, 15.2.1975, p. 14.

<sup>(72)</sup> OJ L 46, 21.2.1976, p. 1.

<sup>(73)</sup> OJ L 39, 15.2.1980, p. 40.

<sup>(74)</sup> OJ L 247, 21.9.2007, p. 17.

<sup>(75)</sup> OJ L 71, 18.3.2011, p. 1.

<sup>(76)</sup> OJ L 96, 29.3.2014, p. 107.

<sup>(77)</sup> OJ L 96, 29.3.2014, p. 149.

<sup>(78)</sup> OJ L 88, 4.4.2011, p. 5.

<sup>(79)</sup> OJ L 81, 31.3.2016, p. 51.

<sup>(80)</sup> OJ L 81, 31.3.2016, p. 1.

- Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC <sup>(81)</sup>
- Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC <sup>(82)</sup>
- Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors <sup>(83)</sup>

#### 15. Electrical and radio equipment

- Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility <sup>(84)</sup>
- Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres <sup>(85)</sup>
- Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits <sup>(86)</sup>
- Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC <sup>(87)</sup>

#### 16. Textiles, footwear

- Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council <sup>(88)</sup>
- Directive 94/11/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws, regulation and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer <sup>(89)</sup>

#### 17. Cosmetics, toys

- Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products <sup>(90)</sup>
- Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys <sup>(91)</sup>

#### 18. Recreational craft

- Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC <sup>(92)</sup>

#### 19. Explosives and pyrotechnic articles

- Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses <sup>(93)</sup>

<sup>(81)</sup> OJ L 157, 9.6.2006, p. 24.

<sup>(82)</sup> OJ L 252, 16.9.2016, p. 53.

<sup>(83)</sup> OJ L 162, 3.7.2000, p. 1.

<sup>(84)</sup> OJ L 96, 29.3.2014, p. 79.

<sup>(85)</sup> OJ L 96, 29.3.2014, p. 309.

<sup>(86)</sup> OJ L 96, 29.3.2014, p. 357.

<sup>(87)</sup> OJ L 153, 22.5.2014, p. 62.

<sup>(88)</sup> OJ L 272, 18.10.2011, p. 1.

<sup>(89)</sup> OJ L 100, 19.4.1994, p. 37.

<sup>(90)</sup> OJ L 342, 22.12.2009, p. 59.

<sup>(91)</sup> OJ L 170, 30.6.2009, p. 1.

<sup>(92)</sup> OJ L 354, 28.12.2013, p. 90.

<sup>(93)</sup> OJ L 96, 29.3.2014, p. 1.

- Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles <sup>(94)</sup>
- Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors <sup>(95)</sup>

## 20. Medicinal products

- Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency <sup>(96)</sup>

The references to Community in the second subparagraph of Article 2 and in the second subparagraph of Article 48 of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

- Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use <sup>(97)</sup>

The references to Community in Articles 8(2) and 16b(1) of that Directive as well as the reference to Union in the second subparagraph of Article 104(3) of that Directive shall not be read as including the United Kingdom in respect of Northern Ireland, with the exception of authorisations by the United Kingdom in respect of Northern Ireland.

A medicinal product authorised in the United Kingdom in respect of Northern Ireland shall not be considered as a reference medicinal product in the Union.

- Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 <sup>(98)</sup>, with the exception of Article 36

- Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products <sup>(99)</sup>

- Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 <sup>(100)</sup>

- Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products <sup>(101)</sup>

The references to Community in Article 12(2) and the second paragraph of Article 74 of that Directive shall not be read as including the United Kingdom in respect of Northern Ireland, with the exception of authorisations by the United Kingdom in respect of Northern Ireland.

A veterinary medicinal product authorised in the United Kingdom in respect of Northern Ireland shall not be considered as a reference medicinal product in the Union.

- Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council <sup>(102)</sup>

- Article 13 of Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use <sup>(103)</sup>

- Chapter IX of Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC <sup>(104)</sup>

<sup>(94)</sup> OJ L 178, 28.6.2013, p. 27.

<sup>(95)</sup> OJ L 39, 9.2.2013, p. 1.

<sup>(96)</sup> OJ L 136, 30.4.2004, p. 1.

<sup>(97)</sup> OJ L 311, 28.11.2001, p. 67.

<sup>(98)</sup> OJ L 378, 27.12.2006, p. 1.

<sup>(99)</sup> OJ L 18, 22.1.2000, p. 1.

<sup>(100)</sup> OJ L 324, 10.12.2007, p. 121.

<sup>(101)</sup> OJ L 311, 28.11.2001, p. 1.

<sup>(102)</sup> OJ L 152, 16.6.2009, p. 11.

<sup>(103)</sup> OJ L 121, 1.5.2001, p. 34.

<sup>(104)</sup> OJ L 158, 27.5.2014, p. 1.

- Directive 2009/35/EC of the European Parliament and of the Council of 23 April 2009 on the colouring matters which may be added to medicinal products <sup>(105)</sup>
- Regulation (EU) 2016/793 of the European Parliament and of the Council of 11 May 2016 to avoid trade diversion into the European Union of certain key medicines <sup>(106)</sup>

#### 21. Medical devices

- Council Directive 93/42/EEC of 14 June 1993 concerning medical devices <sup>(107)</sup>
- Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices <sup>(108)</sup>
- Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices <sup>(109)</sup>
- Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC <sup>(110)</sup>
- Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU <sup>(111)</sup>

#### 22. Substances of human origin

- Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC <sup>(112)</sup>
- Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells <sup>(113)</sup>
- Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation <sup>(114)</sup>

#### 23. Chemicals and related

- Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers <sup>(115)</sup>
- Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances <sup>(116)</sup>
- Directive 2004/9/EC of the European Parliament and of the Council of 11 February 2004 on the inspection and verification of good laboratory practice (GLP) <sup>(117)</sup>
- Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment <sup>(118)</sup>
- Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents <sup>(119)</sup>

<sup>(105)</sup> OJ L 109, 30.4.2009, p. 10.

<sup>(106)</sup> OJ L 135, 24.5.2016, p. 39.

<sup>(107)</sup> OJ L 169, 12.7.1993, p. 1.

<sup>(108)</sup> OJ L 331, 7.12.1998, p. 1.

<sup>(109)</sup> OJ L 189, 20.7.1990, p. 17.

<sup>(110)</sup> OJ L 117, 5.5.2017, p. 1.

<sup>(111)</sup> OJ L 117, 5.5.2017, p. 176.

<sup>(112)</sup> OJ L 33, 8.2.2003, p. 30.

<sup>(113)</sup> OJ L 102, 7.4.2004, p. 48.

<sup>(114)</sup> OJ L 207, 6.8.2010, p. 14.

<sup>(115)</sup> OJ L 304, 21.11.2003, p. 1.

<sup>(116)</sup> OJ L 50, 20.2.2004, p. 44.

<sup>(117)</sup> OJ L 50, 20.2.2004, p. 28.

<sup>(118)</sup> OJ L 174, 1.7.2011, p. 88.

<sup>(119)</sup> OJ L 104, 8.4.2004, p. 1.



- Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC <sup>(120)</sup>
- Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals <sup>(121)</sup>
- Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 <sup>(122)</sup>
- Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC <sup>(123)</sup>
- Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC <sup>(124)</sup>
- Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 <sup>(125)</sup>
- Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors <sup>(126)</sup>

#### 24. Pesticides, biocides

- Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC <sup>(127)</sup>
- Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC <sup>(128)</sup>

The reference to Member States in Article 43 of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

- Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products <sup>(129)</sup>

The references to Member State in Articles 3(3), 15(1) and 28(4) and point (g) of Article 75(1) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

#### 25. Waste

- Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste <sup>(130)</sup>
- Directive 94/62/EC of the European Parliament and of the Council 20 December 1994 on packaging and packaging waste <sup>(131)</sup>
- Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC <sup>(132)</sup>
- Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel <sup>(133)</sup>

<sup>(120)</sup> OJ L 158, 30.4.2004, p. 7.

<sup>(121)</sup> OJ L 201, 27.7.2012, p. 60.

<sup>(122)</sup> OJ L 137, 24.5.2017, p. 1.

<sup>(123)</sup> OJ L 266, 26.9.2006, p. 1.

<sup>(124)</sup> OJ L 396, 30.12.2006, p. 1.

<sup>(125)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(126)</sup> OJ L 47, 18.2.2004, p. 1.

<sup>(127)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(128)</sup> OJ L 70, 16.3.2005, p. 1.

<sup>(129)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(130)</sup> OJ L 190, 12.7.2006, p. 1.

<sup>(131)</sup> OJ L 365, 31.12.1994, p. 10.

<sup>(132)</sup> OJ L 330, 10.12.2013, p. 1.

<sup>(133)</sup> OJ L 337, 5.12.2006, p. 21.

## 26. Environment, energy efficiency

- Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species <sup>(134)</sup>
- Council Regulation (EC) No 708/2007 of 11 June 2007 concerning use of alien and locally absent species in aquaculture <sup>(135)</sup>
- Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel <sup>(136)</sup>
- Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC <sup>(137)</sup>
- Council Directive (EU) 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels <sup>(138)</sup>
- Directive 2004/42/EC of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC <sup>(139)</sup>
- Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market <sup>(140)</sup>
- Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community <sup>(141)</sup>
- Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 <sup>(142)</sup>
- Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer <sup>(143)</sup>
- Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008 <sup>(144)</sup>
- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein <sup>(145)</sup>
- Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards <sup>(146)</sup>
- Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products <sup>(147)</sup>
- Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur <sup>(148)</sup>
- Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom <sup>(149)</sup>
- Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment <sup>(150)</sup>

<sup>(134)</sup> OJL 317, 4.11.2014, p. 35.

<sup>(135)</sup> OJL 168, 28.6.2007, p. 1.

<sup>(136)</sup> OJL 27, 30.1.2010, p. 1.

<sup>(137)</sup> OJL 350, 28.12.1998, p. 58.

<sup>(138)</sup> OJL 107, 25.4.2015, p. 26.

<sup>(139)</sup> OJL 143, 30.4.2004, p. 87.

<sup>(140)</sup> OJL 295, 12.11.2010, p. 23.

<sup>(141)</sup> OJL 347, 30.12.2005, p. 1.

<sup>(142)</sup> OJL 150, 20.5.2014, p. 195.

<sup>(143)</sup> OJL 286, 31.10.2009, p. 1.

<sup>(144)</sup> OJL 137, 24.5.2017, p. 1.

<sup>(145)</sup> OJL 61, 3.3.1997, p. 1.

<sup>(146)</sup> OJL 308, 9.11.1991, p. 1.

<sup>(147)</sup> OJL 286, 31.10.2009, p. 36.

<sup>(148)</sup> OJL 343, 27.12.2007, p. 1.

<sup>(149)</sup> OJL 91, 9.4.1983, p. 30.

<sup>(150)</sup> OJL 39, 13.2.2008, p. 1.

- Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters <sup>(151)</sup>
- Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products <sup>(152)</sup>
- Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU <sup>(153)</sup>

#### 27. Marine equipment

- Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC <sup>(154)</sup>

#### 28. Rail transport

- Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union <sup>(155)</sup>, insofar as conditions and technical specifications for the placing on the market, putting into service and free movement of railway products are concerned

#### 29. Food – general

- Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(156)</sup>

The reference to Member State in the second subparagraph of Article 29(1) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

- Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 <sup>(157)</sup>
- Regulation (EC) 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods <sup>(158)</sup>

#### 30. Food – hygiene

- Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin <sup>(159)</sup>
- Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs <sup>(160)</sup>
- Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption <sup>(161)</sup>

#### 31. Food – ingredients, traces, residues, marketing standards

- Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings <sup>(162)</sup>

The reference to Member State in Article 3(1) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

<sup>(151)</sup> OJL 342, 22.12.2009, p. 46.

<sup>(152)</sup> OJL 285, 31.10.2009, p. 10.

<sup>(153)</sup> OJL 198, 28.7.2017, p. 1.

<sup>(154)</sup> OJL 257, 28.8.2014, p. 146.

<sup>(155)</sup> OJL 138, 26.5.2016, p. 44.

<sup>(156)</sup> OJL 31, 1.2.2002, p. 1.

<sup>(157)</sup> OJL 304, 22.11.2011, p. 18.

<sup>(158)</sup> OJL 404, 30.12.2006, p. 9.

<sup>(159)</sup> OJL 139, 30.4.2004, p. 55.

<sup>(160)</sup> OJL 139, 30.4.2004, p. 1.

<sup>(161)</sup> OJL 40, 11.2.1989, p. 34.

<sup>(162)</sup> OJL 354, 31.12.2008, p. 1.

- Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 <sup>(163)</sup>
  - Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives <sup>(164)</sup>
  - Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC <sup>(165)</sup>
  - Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements <sup>(166)</sup>
  - Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods <sup>(167)</sup>
  - Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods <sup>(168)</sup>
- The reference to Member State in Article 7(2) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.
- Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food <sup>(169)</sup>
  - Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 <sup>(170)</sup>
  - Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 <sup>(171)</sup>
  - Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts <sup>(172)</sup>
  - Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption <sup>(173)</sup>
  - Council Directive 2001/110/EC of 20 December 2001 relating to honey <sup>(174)</sup>
  - Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption <sup>(175)</sup>
  - Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(176)</sup>
  - Commission Regulation (EC) No 1295/2008 of 18 December 2008 on the importation of hops from third countries <sup>(177)</sup>

<sup>(163)</sup> OJ L 354, 31.12.2008, p. 7.

<sup>(164)</sup> OJ L 354, 31.12.2008, p. 16.

<sup>(165)</sup> OJ L 354, 31.12.2008, p. 34.

<sup>(166)</sup> OJ L 183, 12.7.2002, p. 51.

<sup>(167)</sup> OJ L 404, 30.12.2006, p. 26.

<sup>(168)</sup> OJ L 309, 26.11.2003, p. 1.

<sup>(169)</sup> OJ L 37, 13.2.1993, p. 1.

<sup>(170)</sup> OJ L 327, 11.12.2015, p. 1.

<sup>(171)</sup> OJ L 181, 29.6.2013, p. 35.

<sup>(172)</sup> OJ L 66, 13.3.1999, p. 26.

<sup>(173)</sup> OJ L 197, 3.8.2000, p. 19.

<sup>(174)</sup> OJ L 10, 12.1.2002, p. 47.

<sup>(175)</sup> OJ L 10, 12.1.2002, p. 53.

<sup>(176)</sup> OJ L 157, 15.6.2011, p. 1.

<sup>(177)</sup> OJ L 340, 19.12.2008, p. 45.

- Commission Regulation (EC) No 1375/2007 of 23 November 2007 on imports of residues from the manufacture of starch from maize from the United States of America <sup>(178)</sup>
- Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption <sup>(179)</sup>
- Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption <sup>(180)</sup>
- Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption <sup>(181)</sup>
- Directive (EU) 2015/2203 of the European Parliament and of the Council of 25 November 2015 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC <sup>(182)</sup>
- Chapter IV of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 <sup>(183)</sup>
- Section 1 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(184)</sup>

### 32. Food contact material

- Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC <sup>(185)</sup>
- The reference to Member State in Article 9(1) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.
- Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs <sup>(186)</sup>

### 33. Food – other

- Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation <sup>(187)</sup>
- Directive 1999/3/EC of the European Parliament and of the Council of 22 February 1999 on the establishment of a Community list of foods and food ingredients treated with ionising radiation <sup>(188)</sup>
- Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients <sup>(189)</sup>
- Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters <sup>(190)</sup>
- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 <sup>(191)</sup>
- Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 <sup>(192)</sup>

<sup>(178)</sup> OJL 307, 24.11.2007, p. 5.

<sup>(179)</sup> OJL 10, 12.1.2002, p. 58.

<sup>(180)</sup> OJL 10, 12.1.2002, p. 67.

<sup>(181)</sup> OJL 15, 17.1.2002, p. 19.

<sup>(182)</sup> OJL 314, 1.12.2015, p. 1.

<sup>(183)</sup> OJL 347, 20.12.2013, p. 549.

<sup>(184)</sup> OJL 347, 20.12.2013, p. 671.

<sup>(185)</sup> OJL 338, 13.11.2004, p. 4.

<sup>(186)</sup> OJL 277, 20.10.1984, p. 12.

<sup>(187)</sup> OJL 66, 13.3.1999, p. 16.

<sup>(188)</sup> OJL 66, 13.3.1999, p. 24.

<sup>(189)</sup> OJL 141, 6.6.2009, p. 3.

<sup>(190)</sup> OJL 164, 26.6.2009, p. 45.

<sup>(191)</sup> OJL 189, 20.7.2007, p. 1.

<sup>(192)</sup> OJL 150, 14.6.2018, p. 1.

- Council Regulation (Euratom) 2016/52 of 15 January 2016 laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency, and repealing Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and (Euratom) No 770/90 <sup>(193)</sup>
- Council Regulation (EC) No 733/2008 of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station <sup>(194)</sup>

#### 34. Feed – products and hygiene

- Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC <sup>(195)</sup>
- Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed <sup>(196)</sup>
- Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition <sup>(197)</sup>

The references to national reference laboratories in point 6 of Annex II to that Regulation shall not be read as applying to the United Kingdom in respect of Northern Ireland. This shall not prevent a national reference laboratory located in a Member State from fulfilling the functions of a national reference laboratory in respect of Northern Ireland. Information and material exchanged for that purpose between the competent authorities of Northern Ireland and a national reference laboratory in a Member State shall not be subject to further disclosure by the national reference laboratory without the prior consent of those competent authorities.

- Council Directive 90/167/EEC of 26 March 1990 laying down the conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community <sup>(198)</sup>
- Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene <sup>(199)</sup>

#### 35. GMOs

- Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed <sup>(200)</sup>, with the exception of the second paragraph of Article 32

This shall not prevent a national reference laboratory located in a Member State from fulfilling the functions of a national reference laboratory in respect of Northern Ireland. Information and material exchanged for that purpose between the competent authorities of Northern Ireland and a national reference laboratory in a Member State shall not be subject to further disclosure by the national reference laboratory without the prior consent of those competent authorities.

The references to Member State in Articles 10(1) and 22(1) of that Regulation shall not be read as including the United Kingdom in respect of Northern Ireland.

- Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC <sup>(201)</sup>
- Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms <sup>(202)</sup>
- Part C of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC <sup>(203)</sup>

<sup>(193)</sup> OJ L 13, 20.1.2016, p. 2.

<sup>(194)</sup> OJ L 201, 30.7.2008, p. 1.

<sup>(195)</sup> OJ L 229, 1.9.2009, p. 1.

<sup>(196)</sup> OJ L 140, 30.5.2002, p. 10.

<sup>(197)</sup> OJ L 268, 18.10.2003, p. 29.

<sup>(198)</sup> OJ L 92, 7.4.1990, p. 42.

<sup>(199)</sup> OJ L 35, 8.2.2005, p. 1.

<sup>(200)</sup> OJ L 268, 18.10.2003, p. 1.

<sup>(201)</sup> OJ L 268, 18.10.2003, p. 24.

<sup>(202)</sup> OJ L 287, 5.11.2003, p. 1.

<sup>(203)</sup> OJ L 106, 17.4.2001, p. 1.

## 36. Live animals, germinal products and products of animal origin

References to national reference laboratories in the acts listed in this section shall not be read as including the reference laboratory in the United Kingdom. This shall not prevent a national reference laboratory located in a Member State from fulfilling the functions of a national reference laboratory in respect of Northern Ireland. Information and material exchanged for that purpose between the competent authorities of Northern Ireland and a national reference laboratory in a Member State shall not be subject to further disclosure by the national reference laboratory without the prior consent of those competent authorities.

- Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') <sup>(204)</sup>
- Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine <sup>(205)</sup>
- Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals <sup>(206)</sup>
- Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae <sup>(207)</sup>
- Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs <sup>(208)</sup>
- Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC <sup>(209)</sup>
- Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species <sup>(210)</sup>
- Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species <sup>(211)</sup>
- Council Directive 90/429/EEC of 26 June 1990 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species <sup>(212)</sup>
- Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC <sup>(213)</sup>
- Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals <sup>(214)</sup>
- Council Directive 2004/68/EC of 26 April 2004 laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals, amending Directives 90/426/EEC and 92/65/EEC and repealing Directive 72/462/EEC <sup>(215)</sup>
- Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption <sup>(216)</sup>

<sup>(204)</sup> OJ L 84, 31.3.2016, p. 1.

<sup>(205)</sup> OJ L 121, 29.7.1964, p. 1977.

<sup>(206)</sup> OJ L 46, 19.2.1991, p. 19.

<sup>(207)</sup> OJ L 192, 23.7.2010, p. 1.

<sup>(208)</sup> OJ L 343, 22.12.2009, p. 74.

<sup>(209)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(210)</sup> OJ L 194, 22.7.1988, p. 10.

<sup>(211)</sup> OJ L 302, 19.10.1989, p. 1.

<sup>(212)</sup> OJ L 224, 18.8.1990, p. 62.

<sup>(213)</sup> OJ L 62, 15.3.1993, p. 49.

<sup>(214)</sup> OJ L 328, 24.11.2006, p. 14.

<sup>(215)</sup> OJ L 139, 30.4.2004, p. 321.

<sup>(216)</sup> OJ L 18, 23.1.2003, p. 11.

- Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 <sup>(217)</sup>
- Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) <sup>(218)</sup>

### 37. Animal disease control, zoonosis control

References to national reference laboratories in the acts listed in this section shall not be read as including the reference laboratory in the United Kingdom. This shall not prevent a national reference laboratory located in a Member State from fulfilling the functions of a national reference laboratory in respect of Northern Ireland. Information and material exchanged for that purpose between the competent authorities of Northern Ireland and a national reference laboratory in a Member State shall not be subject to further disclosure by the national reference laboratory without the prior consent of those competent authorities.

- Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies <sup>(219)</sup>
- Council Directive 77/391/EEC of 17 May 1977 introducing Community measures for the eradication of brucellosis, tuberculosis and leucosis in cattle <sup>(220)</sup>
- Council Directive 78/52/EEC of 13 December 1977 establishing the Community criteria for national plans for the accelerated eradication of brucellosis, tuberculosis and enzootic leukosis in cattle <sup>(221)</sup>
- Council Directive 2003/85/EC of 29 September 2003 on Community measures for the control of foot-and-mouth disease repealing Directive 85/511/EEC and Decisions 89/531/EEC and 91/665/EEC and amending Directive 92/46/EEC <sup>(222)</sup>
- Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC <sup>(223)</sup>
- Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever <sup>(224)</sup>
- Council Directive 92/35/EEC of 29 April 1992 laying down control rules and measures to combat African horse sickness <sup>(225)</sup>
- Council Directive 2002/60/EC of 27 June 2002 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever <sup>(226)</sup>
- Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents <sup>(227)</sup>
- Council Directive 92/66/EEC of 14 July 1992 introducing Community measures for the control of Newcastle disease <sup>(228)</sup>
- Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease <sup>(229)</sup>
- Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC <sup>(230)</sup>
- Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue <sup>(231)</sup>

<sup>(217)</sup> OJ L 178, 28.6.2013, p. 1.

<sup>(218)</sup> OJ L 300, 14.11.2009, p. 1.

<sup>(219)</sup> OJ L 147, 31.5.2001, p. 1.

<sup>(220)</sup> OJ L 145, 13.6.1977, p. 44.

<sup>(221)</sup> OJ L 15, 19.1.1978, p. 34.

<sup>(222)</sup> OJ L 306, 22.11.2003, p. 1.

<sup>(223)</sup> OJ L 10, 14.1.2006, p. 16.

<sup>(224)</sup> OJ L 316, 1.12.2001, p. 5.

<sup>(225)</sup> OJ L 157, 10.6.1992, p. 19.

<sup>(226)</sup> OJ L 192, 20.7.2002, p. 27.

<sup>(227)</sup> OJ L 325, 12.12.2003, p. 1.

<sup>(228)</sup> OJ L 260, 5.9.1992, p. 1.

<sup>(229)</sup> OJ L 62, 15.3.1993, p. 69.

<sup>(230)</sup> OJ L 325, 12.12.2003, p. 31.

<sup>(231)</sup> OJ L 327, 22.12.2000, p. 74.



## 38. Animal identification

- Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC <sup>(232)</sup>
- Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 <sup>(233)</sup>
- Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs <sup>(234)</sup>

## 39. Animal breeding

- Article 37 and Article 64(3) of Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation') <sup>(235)</sup>

## 40. Animal welfare

- Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 <sup>(236)</sup>
- Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing <sup>(237)</sup>

## 41. Plant health

- Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community <sup>(238)</sup>
- Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC <sup>(239)</sup>

## 42. Plant reproductive material

- Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed <sup>(240)</sup>
- Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine <sup>(241)</sup>
- Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material <sup>(242)</sup>
- Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species <sup>(243)</sup>
- Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed <sup>(244)</sup>
- Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed <sup>(245)</sup>

<sup>(232)</sup> OJL 5, 9.1.2004, p. 8.

<sup>(233)</sup> OJL 204, 11.8.2000, p. 1.

<sup>(234)</sup> OJL 213, 8.8.2008, p. 31.

<sup>(235)</sup> OJL 171, 29.6.2016, p. 66.

<sup>(236)</sup> OJL 3, 5.1.2005, p. 1.

<sup>(237)</sup> OJL 303, 18.11.2009, p. 1.

<sup>(238)</sup> OJL 169, 10.7.2000, p. 1.

<sup>(239)</sup> OJL 317, 23.11.2016, p. 4.

<sup>(240)</sup> OJL 125, 11.7.1966, p. 2309.

<sup>(241)</sup> OJL 93, 17.4.1968, p. 15.

<sup>(242)</sup> OJL 11, 15.1.2000, p. 17.

<sup>(243)</sup> OJL 193, 20.7.2002, p. 1.

<sup>(244)</sup> OJL 193, 20.7.2002, p. 12.

<sup>(245)</sup> OJL 193, 20.7.2002, p. 33.

- Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes <sup>(246)</sup>
- Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants <sup>(247)</sup>
- Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production <sup>(248)</sup>

#### 43. Official controls, veterinary checks

References to national reference laboratories in the acts listed in this section shall not be read as including the reference laboratory in the United Kingdom. This shall not prevent a national reference laboratory located in a Member State from fulfilling the functions of a national reference laboratory in respect of Northern Ireland. Information and material exchanged for that purpose between the competent authorities of Northern Ireland and a national reference laboratory in a Member State shall not be subject to further disclosure by the national reference laboratory without the prior consent of those competent authorities.

- Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) <sup>(249)</sup>
- Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules <sup>(250)</sup>
- Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption <sup>(251)</sup>
- Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC <sup>(252)</sup>
- Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries <sup>(253)</sup>
- Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market <sup>(254)</sup>
- Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market <sup>(255)</sup>

#### 44. Sanitary and phytosanitary - Other

- Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of  $\beta$ -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC <sup>(256)</sup>
- Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC <sup>(257)</sup>

<sup>(246)</sup> OJ L 193, 20.7.2002, p. 60.

<sup>(247)</sup> OJ L 193, 20.7.2002, p. 74.

<sup>(248)</sup> OJ L 267, 8.10.2008, p. 8.

<sup>(249)</sup> OJ L 95, 7.4.2017, p. 1.

<sup>(250)</sup> OJ L 165, 30.4.2004, p. 1.

<sup>(251)</sup> OJ L 139, 30.4.2004, p. 206.

<sup>(252)</sup> OJ L 268, 24.9.1991, p. 56.

<sup>(253)</sup> OJ L 24, 30.1.1998, p. 9.

<sup>(254)</sup> OJ L 224, 18.8.1990, p. 29.

<sup>(255)</sup> OJ L 395, 30.12.1989, p. 13.

<sup>(256)</sup> OJ L 125, 23.5.1996, p. 3.

<sup>(257)</sup> OJ L 125, 23.5.1996, p. 10.

## 45. Intellectual property

- Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 <sup>(258)</sup>
- Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(259)</sup>
- Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatized wine products and repealing Council Regulation (EEC) No 1601/91 <sup>(260)</sup>
- Sections 2 and 3 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(261)</sup>
- Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 <sup>(262)</sup>

## 46. Fisheries and aquaculture

- Commission Regulation (EEC) No 3703/85 of 23 December 1985 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish <sup>(263)</sup>
- Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products <sup>(264)</sup>
- Council Regulation (EEC) No 1536/92 of 9 June 1992 laying down common marketing standards for preserved tuna and bonito <sup>(265)</sup>
- Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products <sup>(266)</sup>
- Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms <sup>(267)</sup>, insofar as it concerns provisions relating to minimum sizes of marine organisms
- Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 <sup>(268)</sup>, insofar as it concerns provisions relating to marketing standards
- Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 <sup>(269)</sup>, insofar as it concerns provisions relating to marketing standards and consumer information
- Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC <sup>(270)</sup>, insofar as it concerns provisions relating to marketing standards for fishery and aquaculture products

<sup>(258)</sup> OJL 39, 13.2.2008, p. 16.

<sup>(259)</sup> OJL 343, 14.12.2012, p. 1.

<sup>(260)</sup> OJL 84, 20.3.2014, p. 14.

<sup>(261)</sup> OJL 347, 20.12.2013, p. 671.

<sup>(262)</sup> OJL 181, 29.6.2013, p. 15.

<sup>(263)</sup> OJL 351, 28.12.1985, p. 63.

<sup>(264)</sup> OJL 212, 22.7.1989, p. 79.

<sup>(265)</sup> OJL 163, 17.6.1992, p. 1.

<sup>(266)</sup> OJL 334, 23.12.1996, p. 1.

<sup>(267)</sup> OJL 125, 27.4.1998, p. 1.

<sup>(268)</sup> OJL 343, 22.12.2009, p. 1.

<sup>(269)</sup> OJL 354, 28.12.2013, p. 1.

<sup>(270)</sup> OJL 354, 28.12.2013, p. 22.

- Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 <sup>(271)</sup>
- Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus* spp. <sup>(272)</sup>
- Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna *Thunnus thynnus* and amending Council Regulation (EC) No 1984/2003 <sup>(273)</sup>
- Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel <sup>(274)</sup>

#### 47. Other

- Part III of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(275)</sup>, with the exception of Chapter VI
- Council Regulation (EC) No 2964/95 of 20 December 1995 introducing registration for crude oil imports and deliveries in the Community <sup>(276)</sup>
- Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins <sup>(277)</sup>
- Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community <sup>(278)</sup>
- Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC <sup>(279)</sup>
- Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods <sup>(280)</sup>
- Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 <sup>(281)</sup>
- Council Directive 69/493/EEC of 15 December 1969 on the approximation of the laws of the Member States relating to crystal glass <sup>(282)</sup>
- Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items <sup>(283)</sup>
- Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons <sup>(284)</sup>
- Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition <sup>(285)</sup>

<sup>(271)</sup> OJL 286, 29.10.2008, p. 1.

<sup>(272)</sup> OJL 145, 31.5.2001, p. 1.

<sup>(273)</sup> OJL 194, 24.7.2010, p. 1.

<sup>(274)</sup> OJL 248, 22.9.2007, p. 17.

<sup>(275)</sup> OJL 347, 20.12.2013, p. 671.

<sup>(276)</sup> OJL 310, 22.12.1995, p. 5.

<sup>(277)</sup> OJL 373, 21.12.2004, p. 1.

<sup>(278)</sup> OJL 309, 25.11.2005, p. 9.

<sup>(279)</sup> OJL 127, 29.4.2014, p. 1.

<sup>(280)</sup> OJL 39, 10.2.2009, p. 1.

<sup>(281)</sup> OJL 159, 28.5.2014, p. 1.

<sup>(282)</sup> OJL 326, 29.12.1969, p. 36.

<sup>(283)</sup> OJL 134, 29.5.2009, p. 1.

<sup>(284)</sup> OJL 256, 13.9.1991, p. 51.

<sup>(285)</sup> OJL 94, 30.3.2012, p. 1.

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- Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community <sup>(286)</sup>
  - Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment <sup>(287)</sup>
  - Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds <sup>(288)</sup>
  - Restrictive measures in force based on Article 215 TFEU, insofar as they relate to trade in goods between the Union and third countries
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<sup>(286)</sup> OJ L 146, 10.6.2009, p. 1.

<sup>(287)</sup> OJ L 200, 30.7.2005, p. 1.

<sup>(288)</sup> OJ L 358, 31.12.2002, p. 28.

## ANNEX 6

## PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 9

1. Value Added Tax <sup>(1)</sup>

- Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax <sup>(2)</sup>
- Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State <sup>(3)</sup>
- Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax <sup>(4)</sup>
- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures <sup>(5)</sup>
- Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory <sup>(6)</sup>
- Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries <sup>(7)</sup>
- Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods <sup>(8)</sup>
- Council Directive 2006/79/EC of 5 October 2006 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries <sup>(9)</sup>
- Obligations stemming from the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax <sup>(10)</sup>
- Obligations stemming from the Cooperation agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to combat fraud and any other illegal activity to the detriment of their financial interests <sup>(11)</sup>

## 2. Excise

- Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC <sup>(12)</sup>
- Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 <sup>(13)</sup>
- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures <sup>(14)</sup>
- Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages <sup>(15)</sup>
- Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages <sup>(16)</sup>

<sup>(1)</sup> The headings and subheadings in this Annex are purely indicative.

<sup>(2)</sup> OJ L 347, 11.12.2006, p. 1.

<sup>(3)</sup> OJ L 44, 20.2.2008, p. 23.

<sup>(4)</sup> OJ L 268, 12.10.2010, p. 1.

<sup>(5)</sup> OJ L 84, 31.3.2010, p. 1.

<sup>(6)</sup> OJ L 326, 21.11.1986, p. 40.

<sup>(7)</sup> OJ L 346, 29.12.2007, p. 6.

<sup>(8)</sup> OJ L 292, 10.11.2009, p. 5.

<sup>(9)</sup> OJ L 286, 17.10.2006, p. 15.

<sup>(10)</sup> OJ L 195, 1.8.2018, p. 1.

<sup>(11)</sup> OJ L 46, 17.2.2009, p. 8.

<sup>(12)</sup> OJ L 9, 14.1.2009, p. 12.

<sup>(13)</sup> OJ L 121, 8.5.2012, p. 1.

<sup>(14)</sup> OJ L 84, 31.3.2010, p. 1.

<sup>(15)</sup> OJ L 316, 31.10.1992, p. 21.

<sup>(16)</sup> OJ L 316, 31.10.1992, p. 29.

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- Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco <sup>(17)</sup>
  - Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity <sup>(18)</sup>
  - Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene <sup>(19)</sup>
  - Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products <sup>(20)</sup>
  - Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries <sup>(21)</sup>
  - Council Directive 2006/79/EC of 5 October 2006 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries <sup>(22)</sup>

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<sup>(17)</sup> OJ L 176, 5.7.2011, p. 24.

<sup>(18)</sup> OJ L 283, 31.10.2003, p. 51.

<sup>(19)</sup> OJ L 291, 6.12.1995, p. 46.

<sup>(20)</sup> OJ L 162, 1.7.2003, p. 5.

<sup>(21)</sup> OJ L 346, 29.12.2007, p. 6.

<sup>(22)</sup> OJ L 286, 17.10.2006, p. 15.

## ANNEX 7

## PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 11

The following acts shall apply to and in the United Kingdom in respect of Northern Ireland insofar as they apply to the generation, transmission, distribution, and supply of electricity, trading in wholesale electricity or cross-border exchanges in electricity.

Provisions relating to retail markets and consumer protection shall not apply. References to a provision of another Union act in the acts listed in this Annex shall not render the provision referred to applicable where it does not otherwise apply to and in the United Kingdom in respect of Northern Ireland, unless it is a provision governing wholesale electricity markets which applies in Ireland and is necessary for the joint operation of the single wholesale electricity market in Ireland and Northern Ireland.

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC <sup>(1)</sup>
- Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 <sup>(2)</sup>
- Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators <sup>(3)</sup>
- Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment <sup>(4)</sup>
- Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency <sup>(5)</sup>
- Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) <sup>(6)</sup>
- Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC <sup>(7)</sup>

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<sup>(1)</sup> OJ L 211, 14.8.2009, p. 55.

<sup>(2)</sup> OJ L 211, 14.8.2009, p. 15.

<sup>(3)</sup> OJ L 211, 14.8.2009, p. 1.

<sup>(4)</sup> OJ L 33, 4.2.2006, p. 22.

<sup>(5)</sup> OJ L 326, 8.12.2011, p. 1.

<sup>(6)</sup> OJ L 334, 17.12.2010, p. 17.

<sup>(7)</sup> OJ L 275, 25.10.2003, p. 32.



## ANNEX 8

PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 12(1) OF THIS PROTOCOL AND ARTICLE 7(1) OF ANNEX 4

1. State Aid rules in the TFEU <sup>(1)</sup>

- Articles 107, 108 and 109 TFEU
- Article 106 TFEU, insofar as it concerns State aid
- Article 93 TFEU

## 2. Acts referring to the notion of aid

- Commission notice on the notion of State aid <sup>(2)</sup>
- Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest <sup>(3)</sup>
- Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees <sup>(4)</sup>

## 3. Block exemption regulations

## 3.1 Enabling regulation

- Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid <sup>(5)</sup>

## 3.2 General block exemption regulation

- Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty <sup>(6)</sup>

## 3.3 Sectorial block exemption regulations

- Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union <sup>(7)</sup>
- Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union <sup>(8)</sup>
- Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 <sup>(9)</sup>
- Communication from the Commission on interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road <sup>(10)</sup>
- Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest <sup>(11)</sup>

<sup>(1)</sup> The headings and subheadings in this Annex are purely indicative.

<sup>(2)</sup> OJ C 262, 19.7.2016, p. 1.

<sup>(3)</sup> OJ C 8, 11.1.2012, p. 4.

<sup>(4)</sup> OJ C 155, 20.6.2008, p. 10.

<sup>(5)</sup> OJ L 248, 24.9.2015, p. 1.

<sup>(6)</sup> OJ L 187, 26.6.2014, p. 1.

<sup>(7)</sup> OJ L 193, 1.7.2014, p. 1.

<sup>(8)</sup> OJ L 369, 24.12.2014, p. 37.

<sup>(9)</sup> OJ L 315, 3.12.2007, p. 1.

<sup>(10)</sup> OJ C 92, 29.3.2014, p. 1.

<sup>(11)</sup> OJ L 7, 11.1.2012, p. 3.

### 3.4 *De minimis* aid regulations

- Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid <sup>(12)</sup>
- Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest <sup>(13)</sup>
- Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector <sup>(14)</sup>
- Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector <sup>(15)</sup>

### 4. Procedural rules

- Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union <sup>(16)</sup>
- Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty <sup>(17)</sup>
- Notice from the Commission — Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid <sup>(18)</sup>
- Commission notice on the determination of the applicable rules for the assessment of unlawful State aid <sup>(19)</sup>
- Commission notice on the enforcement of State aid law by national courts <sup>(20)</sup>
- Communication from Commission on the revision of the method for setting the reference and discount rates <sup>(21)</sup>
- Communication from the Commission - Code of Best Practice for the conduct of State aid control procedures <sup>(22)</sup>
- Commission communication C (2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions <sup>(23)</sup>

### 5. Compatibility rules

#### 5.1 Important Projects of Common European Interest

- Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest <sup>(24)</sup>

#### 5.2 Agricultural aid

- European Union guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 – 2020 <sup>(25)</sup>

#### 5.3 Fisheries and aquaculture aid

- Communication from the Commission – Guidelines for the examination of State aid to the fishery and aquaculture sector <sup>(26)</sup>

<sup>(12)</sup> OJ L 352, 24.12.2013, p. 1.

<sup>(13)</sup> OJ L 114, 26.4.2012, p. 8.

<sup>(14)</sup> OJ L 352, 24.12.2013, p. 9.

<sup>(15)</sup> OJ L 190, 28.6.2014, p. 45.

<sup>(16)</sup> OJ L 248, 24.9.2015, p. 9.

<sup>(17)</sup> OJ L 140, 30.4.2004, p. 1.

<sup>(18)</sup> OJ C 272, 15.11.2007, p. 4.

<sup>(19)</sup> OJ C 119, 22.5.2002, p. 22.

<sup>(20)</sup> OJ C 85, 9.4.2009, p. 1.

<sup>(21)</sup> OJ C 14, 19.1.2008, p. 6.

<sup>(22)</sup> Not yet published in the OJ.

<sup>(23)</sup> OJ C 297, 9.12.2003, p. 6.

<sup>(24)</sup> OJ C 188, 20.6.2014, p. 4.

<sup>(25)</sup> OJ C 204, 1.7.2014, p. 1.

<sup>(26)</sup> OJ C 217, 2.7.2015, p. 1.

- 5.4 Regional aid
  - Guidelines on regional State aid for 2014-2020 <sup>(27)</sup>
- 5.5 Research and development and innovation aid
  - Communication from the Commission — Framework for State aid for research and development and innovation <sup>(28)</sup>
- 5.6 Risk capital aid
  - Communication from the Commission — Guidelines on State aid to promote risk finance investments <sup>(29)</sup>
- 5.7 Rescue and restructuring aid
  - Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty <sup>(30)</sup>
- 5.8 Training aid
  - Communication from the Commission – Criteria for the analysis of the compatibility of State aid for training subject to individual notification <sup>(31)</sup>
- 5.9 Employment aid
  - Communication from the Commission – Criteria for the analysis of the compatibility of State aid for the employment of disadvantaged and disabled workers subject to individual notification <sup>(32)</sup>
- 5.10 Temporary rules in response to the economic and financial crisis
  - Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis <sup>(33)</sup>
  - Communication from the Commission on the treatment of impaired assets in the Community banking sector <sup>(34)</sup>
  - Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules <sup>(35)</sup>
- 5.11 Export credit insurance
  - Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance <sup>(36)</sup>
- 5.12 Energy and environment
  - 5.12.1 Environment and energy
    - Communication from the Commission — Guidelines on State aid for environmental protection and energy 2014-2020 <sup>(37)</sup>
    - Communication from the Commission — Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 <sup>(38)</sup>
  - 5.12.2 Electricity (stranded costs)
    - Commission Communication relating to the methodology for analysis of State aid linked to stranded costs <sup>(39)</sup>

<sup>(27)</sup> OJ C 209, 23.7.2013, p. 1.

<sup>(28)</sup> OJ C 198, 27.6.2014, p. 1.

<sup>(29)</sup> OJ C 19, 22.1.2014, p. 4.

<sup>(30)</sup> OJ C 249, 31.7.2014, p. 1.

<sup>(31)</sup> OJ C 188, 11.8.2009, p. 1.

<sup>(32)</sup> OJ C 188, 11.8.2009, p. 6.

<sup>(33)</sup> OJ C 216, 30.7.2013, p. 1.

<sup>(34)</sup> OJ C 72, 26.3.2009, p. 1.

<sup>(35)</sup> OJ C 195, 19.8.2009, p. 9.

<sup>(36)</sup> OJ C 392, 19.12.2012, p. 1.

<sup>(37)</sup> OJ C 200, 28.6.2014, p. 1.

<sup>(38)</sup> OJ C 158, 5.6.2012, p. 4.

<sup>(39)</sup> [http://ec.europa.eu/competition/state\\_aid/legislation/stranded\\_costs\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/stranded_costs_en.pdf)

### 5.12.3 Coal

- Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines <sup>(40)</sup>

### 5.13 Basic industries and manufacturing (steel)

- Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty <sup>(41)</sup>

### 5.14 Postal services

- Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services <sup>(42)</sup>

### 5.15 Audiovisual, broadcasting and broadband

#### 5.15.1 Audiovisual production

- Communication from the Commission on State aid for films and other audiovisual works <sup>(43)</sup>

#### 5.15.2 Broadcasting

- Communication from the Commission on the application of State aid rules to public service broadcasting <sup>(44)</sup>

#### 5.15.3 Broadband network

- Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks <sup>(45)</sup>

### 5.16 Transport and infrastructure

- Communication from the Commission - Community guidelines on State aid for railway undertakings <sup>(46)</sup>
- Community guidelines on State aid to maritime transport <sup>(47)</sup>
- Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea <sup>(48)</sup>
- Communication from the Commission providing guidance on State aid to ship-management companies <sup>(49)</sup>
- Communication from the Commission — Guidelines on State aid to airports and airlines <sup>(50)</sup>

### 5.17 Services of general economic interest (SGEI)

- Communication from the Commission — European Union framework for State aid in the form of public service compensation <sup>(51)</sup>

## 6. Transparency of financial relations between Member States and public undertakings

- Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings <sup>(52)</sup>

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<sup>(40)</sup> OJ L 336, 21.12.2010, p. 24.

<sup>(41)</sup> OJ C 152, 26.6.2002, p. 5.

<sup>(42)</sup> OJ C 39, 6.2.1998, p. 2.

<sup>(43)</sup> OJ C 332, 15.11.2013, p. 1.

<sup>(44)</sup> OJ C 257, 27.10.2009, p. 1.

<sup>(45)</sup> OJ C 25, 26.1.2013, p. 1.

<sup>(46)</sup> OJ C 184, 22.7.2008, p. 13.

<sup>(47)</sup> OJ C 13, 17.1.2004, p. 3.

<sup>(48)</sup> OJ C 317, 12.12.2008, p. 10.

<sup>(49)</sup> OJ C 132, 11.6.2009, p. 6.

<sup>(50)</sup> OJ C 99, 4.4.2014, p. 3.

<sup>(51)</sup> OJ C 8, 11.1.2012, p. 15.

<sup>(52)</sup> OJ L 318, 17.11.2006, p. 17.

## ANNEX 9

## PROCEDURES REFERRED TO IN ARTICLE 12(2)

The Joint Committee shall determine the initial maximum exempted overall annual level of support and the initial minimum percentage referred to in Article 12(2), taking into account the most recent information available. The initial maximum exempted overall annual level of support shall be informed by the design of the United Kingdom's future agricultural support scheme as well as the annual average of the total amount of expenditure incurred in Northern Ireland under the Common Agricultural Policy under the current MFF 2014-2020. The initial minimum percentage shall be informed by the design of the United Kingdom's agricultural support scheme as well as by the percentage to which the overall expenditure under the Common Agricultural Policy in the Union complied with the provisions of Annex 2 to the WTO Agreement on Agriculture as notified for the period concerned.

The Joint Committee shall adjust the level of support and percentage referred to in the first paragraph informed by the design of the United Kingdom's agricultural support scheme to any variation in the overall amount of support available under the Common Agricultural Policy in the Union in each future Multiannual Financial Framework.

If the Joint Committee fails to determine the initial level of support and percentage in accordance with the first paragraph, or fails to adjust the level of support and percentage in accordance with the second paragraph, by the end of the transition period or within 1 year of the entry into force of a future Multiannual Financial Framework, as the case may be, application of Article 12(2) shall be suspended until the Joint Committee has determined or adjusted the level of support and percentage.

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## ANNEX 10

## PROCEDURES REFERRED TO IN ARTICLE 18(3)

1. Where the Union or the United Kingdom is considering taking safeguard measures under Article 18(1) of this Protocol, it shall, without delay, notify the Union or the United Kingdom, as the case may be, through the Joint Committee and shall provide all relevant information.
  2. The Union and the United Kingdom shall immediately enter into consultations in the Joint Committee with a view to finding a commonly acceptable solution.
  3. The Union or the United Kingdom, as the case may be, may not take safeguard measures until 1 month has elapsed after the date of notification under point 1, unless the consultation procedure under point 2 has been concluded before the expiration of the state limit. When exceptional circumstances requiring immediate action exclude prior examination, the Union or the United Kingdom, as the case may be, may apply forthwith the protective measures strictly necessary to remedy the situation.
  4. The Union or the United Kingdom, as the case may be, shall, without delay, notify the measures taken to the Joint Committee and shall provide all relevant information.
  5. The safeguard measures taken shall be the subject of consultations in the Joint Committee every 3 months from the date of their adoption with a view to their abolition before the date of expiry envisaged, or to the limitation of their scope of application. The Union or the United Kingdom, as the case may be, may at any time request the Joint Committee to review such measures.
  6. Points 1 to 5 shall apply, *mutatis mutandis*, to rebalancing measures referred to in Article 18(2) of this Protocol.
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**PROTOCOL RELATING TO THE SOVEREIGN BASE AREAS OF THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND IN CYPRUS**

The Union and the United Kingdom,

RECALLING that the Joint Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Final Act of the Treaty concerning the Accession of the United Kingdom to the European Communities provided that the arrangements applicable to relations between the European Economic Community and the Sovereign Base Areas will be defined within the context of any agreement between the Community and the Republic of Cyprus,

CONFIRMING that the arrangements applicable to relations between the Union and the Sovereign Base Areas after the withdrawal of the United Kingdom from the Union should continue to be defined within the framework of the Republic of Cyprus' membership of the Union,

TAKING ACCOUNT of the provisions concerning the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia ('the Sovereign Base Areas') set out in the Treaty concerning the Establishment of the Republic of Cyprus and the associated Exchanges of Notes dated 16 August 1960 ('the Treaty of Establishment'),

CONFIRMING that the withdrawal of the United Kingdom from the Union should not affect the rights and obligations of the Republic of Cyprus under Union law or the rights and obligations of the parties to the Treaty of Establishment,

RECALLING that, from the date of accession of the Republic of Cyprus to the Union, Union law applies in the Sovereign Base Areas only to the extent necessary to ensure the implementation of the arrangements set out in Protocol No 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded ('Protocol No 3'),

NOTING the Exchange of Notes between the Government of the United Kingdom and the Government of the Republic of Cyprus concerning the administration of the Sovereign Base Areas, dated 16 August 1960, and the attached Declaration by the United Kingdom Government that one of the main objects to be achieved is the protection of the interests of those resident or working in the Sovereign Base Areas, and considering in this context that those persons should have, to the extent possible, the same treatment as those resident or working in the Republic of Cyprus,

NOTING the commitment of the United Kingdom to preserving the application of the arrangements made pursuant to the Treaty of Establishment whereby the authorities of the Republic of Cyprus administer a wide range of public services in the Sovereign Base Areas, including in the fields of agriculture, customs and taxation,

WHEREAS the Sovereign Base Areas should remain part of the customs territory of the Union after the withdrawal of the United Kingdom from the Union,

NOTING the provisions of the Treaty of Establishment regarding customs arrangements between the Sovereign Base Areas and the Republic of Cyprus and in particular those of Part I of Annex F to that Treaty,

NOTING the commitment of the United Kingdom not to create customs posts or other frontier barriers between the Sovereign Base Areas and the Republic of Cyprus and not to establish commercial or civilian seaports or airports,

DESIRING to determine appropriate arrangements for achieving the objectives of the arrangements set out in Protocol No 3 after the withdrawal of the United Kingdom from the Union,

CONSIDERING that the arrangements set out in this Protocol should ensure the proper implementation and enforcement of the relevant provisions of Union law in relation to the Sovereign Base Areas after the withdrawal of the United Kingdom from the Union,

CONSIDERING that appropriate arrangements need to be laid down as regards the relief and exemptions from duties and taxes that the armed forces of the United Kingdom and associated personnel can maintain after the withdrawal of the United Kingdom from the Union,

RECOGNISING that it is necessary to provide for specific arrangements for the checks on goods and persons crossing the external borders of the Sovereign Base Areas, as well as to provide for the terms under which the relevant provisions of Union law apply to the line between the areas in which the Government of the Republic of Cyprus does not exercise effective control and the Sovereign Base Area of Dhekelia, as currently provided on the basis of the Protocol No 10 on Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded ('Protocol No 10'),

RECOGNISING that cooperation between the Republic of Cyprus and the United Kingdom is essential to ensure the effective implementation of the arrangements laid down in this Protocol,

CONSIDERING that on the basis of the arrangements laid down in this Protocol, Union law will apply in relation to the Sovereign Base Areas in certain policy areas of the Union following the withdrawal of the United Kingdom from the Union,

RECOGNISING the unique arrangements relating to persons living and working in the Sovereign Base Areas under the Treaty of Establishment and the 1960 Declaration and the objective of the consistent application of relevant Union law in both the Republic of Cyprus and the Sovereign Base Areas in order to support those arrangements,

NOTING in this regard that through this Protocol the United Kingdom entrusts the Republic of Cyprus, as a Member State of the Union, with responsibility for implementing and enforcing provisions of Union law in the Sovereign Base Areas as provided for in this Protocol,

RECALLING that the Republic of Cyprus is responsible for the implementation and enforcement of Union law in relation to goods destined for or originating in the Sovereign Base Areas that are entering or leaving through a seaport or airport in the Republic of Cyprus,

UNDERLINING that the arrangements set out in this Protocol are without prejudice to Articles 1 and 2 of the Treaty of Establishment and to the positions of the Republic of Cyprus and the United Kingdom thereon,

CONSIDERING that the arrangements laid down in this Protocol should have the sole purpose of regulating the particular situation of the Sovereign Base Areas and should not apply to any other territory or serve as a precedent,

HAVE AGREED UPON the following provisions, which shall be annexed to 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 ('Withdrawal Agreement'):

#### *Article 1*

#### **General provisions**

1. For the purposes of this Protocol, any reference to the United Kingdom in the applicable provisions of the Withdrawal Agreement shall be understood as referring to the United Kingdom in respect of the Sovereign Base Areas. Titles I, II and III of Part Three and Part Six thereof shall apply without prejudice to the provisions of this Protocol.
2. By way of derogation from Article 4(4) and (5) of the Withdrawal Agreement, the provisions of this Protocol referring to Union law or concepts or provisions thereof shall in their implementation and application be interpreted in conformity with the relevant case law of the Court of Justice of the European Union.
3. Notwithstanding Article 71 of the Withdrawal Agreement, in addition to any provisions of Union law on the protection of personal data applicable to and in the Sovereign Base Areas under this Protocol, Regulation (EU) 2016/679 and Directive (EU) 2016/680 shall apply in respect of personal data processed in the Sovereign Base Areas on the basis of this Protocol.
4. By way of derogation from Article 6(1) of the Withdrawal Agreement, where this Protocol makes reference to a Union act, the reference to that act shall be understood as referring to the act as amended or replaced. This paragraph shall not apply in relation to Article 4(3) and (10) of the Council Regulation (EC) 866/2004 <sup>(1)</sup>, to which Article 10(2) shall apply.

<sup>(1)</sup> Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession (OJ L 161, 30.4.2004, p. 128).



5. Where the Union considers, by way of derogation from Articles 7 and 8 of the Withdrawal Agreement, that full or partial access by the United Kingdom, or by the United Kingdom in respect of the Sovereign Base Areas, as the case may be, is strictly necessary to enable the United Kingdom to comply with its obligations under this Protocol, including where such access is necessary because access to the relevant information cannot be facilitated by other practical means, references to Member States and competent authorities of Member States in provisions of Union law made applicable by this Protocol shall be understood as including the United Kingdom or the United Kingdom in respect of the Sovereign Base Areas, as the case may be in relation to access to any network, information system or database established on the basis of Union law.

## Article 2

### Customs territory of the Union

1. The Sovereign Base Areas, taking into account the Treaty of Establishment, shall be part of the customs territory of the Union. For this purpose, the provisions of Union law on customs and the common commercial policy, including provisions of Union law providing for customs controls of specific goods or for specific purposes, shall apply to and in the Sovereign Base Areas.

2. Goods produced by producers in the Sovereign Base Areas and placed on the market in the customs territory of the Union shall be considered to be goods in free circulation.

3. All goods intended for use in the Sovereign Base Areas shall enter the island of Cyprus through the civilian airports and seaports of the Republic of Cyprus, and all customs formalities, customs controls and collection of import duties related to them shall be carried out by the authorities of the Republic of Cyprus.

4. All goods intended for export shall exit the island of Cyprus through the civilian airports and seaports of the Republic of Cyprus and all customs export formalities and customs controls related to them shall be carried out by the authorities of the Republic of Cyprus.

5. Customs controls on documents and equipment referred to in paragraph 3 of section 11 of Annex C to the Treaty of Establishment shall be carried out in accordance with the provisions of that section.

6. By way of derogation from paragraphs 3 and 4, and with the sole purpose of supporting the operation of the Sovereign Base Areas as military bases, having regard to the Treaty of Establishment, the following provisions shall apply:

(a) the following goods may enter or leave the island of Cyprus through a seaport or airport in the Sovereign Base Areas, subject to all customs formalities, customs controls and collection of duties related to those goods being carried out by the authorities of the Sovereign Base Areas:

- (i) goods imported or exported for official or military purposes;
- (ii) goods imported or exported in personal baggage, exclusively for their personal use, by or on behalf of United Kingdom personnel, as well as by other persons travelling on defence or official business;

(b) parcels which are sent or received by United Kingdom personnel or their dependants and transported by the British Forces Post Office may enter or leave the island of Cyprus through a port or airport in the Sovereign Base Areas under the following conditions:

- (i) incoming parcels addressed to United Kingdom personnel or their dependants shall be transported in a sealed container and conveyed following their arrival to a customs post in the Republic of Cyprus so that the completion of customs formalities, controls and the collection of import duties related to those products can be carried out by the authorities of the Republic of Cyprus;
- (ii) outgoing parcels sent by United Kingdom personnel or their dependants shall be subject to customs control by the authorities of the Sovereign Base Areas.

For the purposes of this paragraph, 'United Kingdom personnel or their dependants' means the persons defined in paragraph 1 of Part I of Annex B to the Treaty of Establishment.

The United Kingdom shall share relevant information with the Republic of Cyprus with a view to cooperating closely to prevent the evasion of duties and taxes, including smuggling.

7. Articles 34, 35 and 36 TFEU and other provisions of Union law on goods, in particular measures adopted pursuant to Article 114 TFEU, shall apply to and in the Sovereign Base Areas.

8. Goods arriving from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control shall cross the line between those areas and the Eastern Sovereign Base Area in accordance with Regulation (EC) No 866/2004.

Without prejudice to Article 6 of this Protocol, the United Kingdom shall be responsible for the implementation and enforcement of Regulation (EC) No 866/2004 in relation to the Sovereign Base Areas in accordance with the provisions of that Regulation. The United Kingdom shall invite the authorities of the Republic of Cyprus to conduct any necessary veterinary, phytosanitary and food safety checks required under that Regulation.

9. The United Kingdom shall be responsible for the implementation and enforcement of the provisions of Union law referred to in paragraph 1 in relation to goods arriving in or leaving the Sovereign Base Areas under paragraph 6.

The United Kingdom shall also be responsible for issuing any licences, authorisations or certificates which may be required in respect of goods covered by paragraph 1 of section 5 of Annex F to the Treaty of Establishment.

10. The Republic of Cyprus shall be responsible for the implementation and enforcement in the Sovereign Base Areas of the provisions of Union law referred to in paragraph 7.

#### *Article 3*

#### **Taxation**

1. The provisions of Union law on turnover taxes, excise duties and other forms of indirect taxation adopted pursuant to Article 113 TFEU shall apply to and in the Sovereign Base Areas.

2. Transactions originating in or intended for the Sovereign Base Areas shall be treated as transactions originating in or intended for the Republic of Cyprus for the purposes of value added tax (VAT), excise duties and other forms of indirect taxation.

3. The Republic of Cyprus shall be responsible for the implementation and the enforcement of the provisions of Union law referred to in this Article in the Sovereign Base Areas, including for the collection of duties and taxes payable by civil natural or legal persons residing or established in the Sovereign Base Areas.

#### *Article 4*

#### **Duty relief**

1. Goods or services received, acquired or imported for use by the armed forces of the United Kingdom or the civilian staff accompanying them, or for supplying their messes or canteens, shall be exempted from customs duties, VAT and excise duties, provided that the persons concerned are eligible for such exemptions in accordance with the Treaty of Establishment. For this purpose, the United Kingdom shall issue exemption certificates upon approval by the Republic of Cyprus in relation to the goods covered by Article 2(3).

2. Any duties that may be collected by the United Kingdom authorities in the Sovereign Base Areas as a result of sale of the goods referred to in paragraph 1 shall be remitted to the authorities of the Republic of Cyprus.

#### *Article 5*

#### **Social security**

With a view to the continued protection of the rights of persons resident or employed in the territory of the Sovereign Base Areas, the United Kingdom and the Republic of Cyprus shall make further arrangements, where necessary, to ensure the proper implementation of Article 4 of Protocol No 3 after the end of the transition period.

#### *Article 6*

#### **Agriculture, fisheries and veterinary and phytosanitary rules**

The provisions of Union law on agriculture and fisheries in Title III of Part Three TFEU and acts adopted pursuant to those provisions, as well as the veterinary and phytosanitary rules adopted in particular pursuant to point (b) of Article 168(4) TFEU, shall apply to and in the Sovereign Base Areas.

The Republic of Cyprus shall be responsible for the implementation and enforcement of the provisions of Union law referred to in the first paragraph in the Sovereign Base Areas.

*Article 7***Checks on persons crossing the external borders of the Sovereign Base Areas**

1. For the purposes of this Article, 'external borders of the Sovereign Base Areas' means the sea boundaries and the airports and seaports of the Sovereign Base Areas, but not their land and sea boundaries with the Republic of Cyprus. Subject to paragraph 6, for the purposes of paragraphs 2 and 7, 'crossing points' means any crossing point authorised by the authorities of the United Kingdom for the crossing of the external borders of the Sovereign Base Areas.

2. The United Kingdom shall carry out checks on persons crossing the external borders of the Sovereign Base Areas. Those checks shall include the verification of travel documents. All persons shall undergo at least one such check in order to establish their identity. The United Kingdom shall only allow the external borders of the Sovereign Base Areas to be crossed at crossing points.

3. Nationals of third countries and nationals of the United Kingdom shall only be permitted to cross the external borders of the Sovereign Base Areas if they fulfil the following conditions:

- (a) they possess a valid travel document;
- (b) they are in possession of a valid visa for the Republic of Cyprus, if required;
- (c) they are engaged in a defence-related activity or are family members of a person who is engaged in such activity; and
- (d) they are not a threat to national security.

The condition specified in point (c) shall not apply to United Kingdom nationals crossing the boundary referred to in paragraph 6.

The United Kingdom may only derogate from the conditions referred to in the first subparagraph on humanitarian grounds, on grounds of national interest or in order to comply with its international obligations.

Members of a force, civilian component and dependants, as defined in Annex C to the Treaty of Establishment, shall be treated as not requiring a visa for the Republic of Cyprus.

4. Any applicant for asylum who first entered the island of Cyprus from outside the Union by one of the Sovereign Base Areas shall be taken back or readmitted to the Sovereign Base Areas at the request of the Member State in whose territory the applicant is present.

The Republic of Cyprus shall continue to cooperate with the United Kingdom with a view to devising practical ways and means of respecting the rights and satisfying the needs of asylum seekers and illegal migrants in the Sovereign Base Areas, bearing in mind humanitarian considerations and in compliance with the relevant Sovereign Base Area Administration legislation.

5. Without prejudice to paragraph 6, there shall be no checks on persons at the land and sea boundaries between the Sovereign Base Areas and the Republic of Cyprus.

6. The boundary between the Eastern Sovereign Base Area and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control shall be treated as part of the external borders of the Sovereign Base Areas for the purposes of this Article for the duration of the suspension of the application of the *acquis* according to Article 1 of Protocol No 10. That boundary may only be crossed at the crossing points of Strovilia and Pergamos. With the prior agreement of and in cooperation with the United Kingdom authorities, the Republic of Cyprus may take further measures to combat illegal migration with respect to persons who have crossed that boundary.

7. The United Kingdom authorities shall use mobile units to carry out external border surveillance between border crossing points and at crossing points outside of normal opening hours at the external borders of the Sovereign Base Areas and at the boundary between the Sovereign Base Area of Dhekelia and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. That surveillance shall be carried out in such a way as to discourage persons from circumventing the checks at crossing points. The United Kingdom authorities shall deploy enough suitably qualified officers to carry out those checks and surveillance.

8. The United Kingdom authorities shall maintain constant close cooperation with the authorities of the Republic of Cyprus with a view to the effective implementation of the checks and surveillance referred to in paragraphs 6 and 7.

*Article 8***Cooperation**

The Republic of Cyprus and the United Kingdom shall cooperate to ensure the effective implementation of this Protocol, in particular with a view to countering fraud and any other illegal activities that affect the financial interests of the Union or of the United Kingdom. The Republic of Cyprus and the United Kingdom may make further arrangements concerning the implementation of any of the provisions of this Protocol. The Republic of Cyprus shall inform the European Commission of any such arrangements before their entry into force.

*Article 9***Specialised Committee**

1. The Specialised Committee on issues related to the implementation of the Protocol related to the Sovereign Base Areas in Cyprus established by Article 165 of the Withdrawal Agreement ('Specialised Committee') shall:

- (a) facilitate the implementation and application of this Protocol;
- (b) discuss any point of relevance to this Protocol giving rise to a difficulty and raised by the Union or the United Kingdom; and
- (c) make recommendations to the Joint Committee as regards the functioning of this Protocol, in particular proposals for amendments of the references to Union law in this Protocol.

2. The European Commission shall inform the Specialised Committee of any report submitted under Article 11 of Regulation (EC) No 866/2004 and shall consult the United Kingdom in relation to any Commission proposal to adopt an act amending or replacing that Regulation if the Sovereign Base Areas are affected.

*Article 10***Joint Committee**

1. The Joint Committee shall amend any references to Union law in this Protocol on a recommendation from the Specialised Committee.

2. If it considers it is necessary in order to maintain the good functioning of this Protocol, the Joint Committee may, on a recommendation from the Specialised Committee, take any decision necessary to replace in relation to this Protocol the provisions referred to in Article 1(4).

3. The Joint Committee may, on a recommendation from the Specialised Committee, amend Article 7(6) in relation to the crossing points identified in that provision.

*Article 11***Operation of Article 6 of Protocol No 3 during the transition period**

Notwithstanding Article 127(1) of the Withdrawal Agreement, any measures adopted during the transition period under Article 6 of Protocol No 3 shall not apply to or in the Sovereign Base Areas.

*Article 12***Supervision and enforcement**

1. In respect of the Sovereign Base Areas and in relation to natural and legal persons residing or established in the territory of those Areas, the institutions, bodies, offices and agencies of the Union shall have the powers conferred upon them by Union law in relation to this Protocol and provisions of Union law made applicable by it. In particular, the Court of Justice of the European Union shall have jurisdiction as provided for in the Treaties in this respect.

2. Acts of the institutions, bodies, offices and agencies adopted in accordance with paragraph 1 shall produce the same legal effects with regard to and in the Sovereign Base Areas as those which they produce within the Union and its Member States.

*Article 13***Responsibility for implementation**

1. Unless otherwise provided in this Protocol, the United Kingdom shall be responsible for the implementation and enforcement of this Protocol in the Sovereign Base Areas. Notwithstanding paragraph 3, the competent authorities of the United Kingdom shall enact the domestic legislation necessary to give effect to this Protocol in the Sovereign Base Areas.
  2. The United Kingdom shall retain the exclusive right to implement and enforce this Protocol in respect of its own authorities or on any immovable property owned or occupied by the Ministry of Defence of the United Kingdom, as well as any coercive enforcement power requiring the power to enter a dwelling house or a power of arrest. The United Kingdom shall retain other coercive enforcement powers unless otherwise provided in the legislation referred to in paragraph 1.
  3. The Republic of Cyprus is entrusted with the responsibility for implementing and enforcing this Protocol in the Sovereign Base Areas in accordance with Article 2(10) and Articles 3 and 6.
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**PROTOCOL ON GIBRALTAR**

The Union and the United Kingdom,

RECALLING that the United Kingdom is responsible for Gibraltar's external relations, and that Union law is applicable to Gibraltar to the extent provided in the 1972 Act of Accession by virtue of Article 355(3) TFEU,

RECALLING that this Protocol is to be implemented in accordance with the respective constitutional orders of the Kingdom of Spain and of the United Kingdom,

RECALLING that, pursuant to Article 50 TEU, in conjunction with Article 106a of the Euratom Treaty, and subject to the arrangements laid down in 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 ('Withdrawal Agreement'), the law of the European Union and of Euratom in its entirety ceases, to apply to the United Kingdom, and therefore to Gibraltar, from the date of entry into force of the Withdrawal Agreement,

CONSIDERING that it is necessary to ensure an orderly withdrawal from the Union in relation to Gibraltar,

STRESSING that the orderly withdrawal of the United Kingdom from the Union in relation to Gibraltar implies that any potential negative effect on the close social and economic relations between Gibraltar and the surrounding area, in particular the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar in the Kingdom of Spain, is adequately addressed,

TAKING NOTE of the commitment of the United Kingdom in respect of Gibraltar to address the payment of benefits in a satisfactory manner by 31 December 2020,

AIMING at continuing to promote balanced economic and social development in the area, in particular in terms of labour conditions, and continuing to ensure the highest levels of environmental protection in accordance with Union law, as well as continuing to strengthen security for the inhabitants of the area, in particular through cooperation in police and customs matters,

ACKNOWLEDGING the benefits for the economic development of the area arising from the free movement of persons under Union law, which will continue to apply during the transition period,

REAFFIRMING in particular the ambition to protect public health, and highlighting the necessity to fight against the serious health, social, and economic consequences of smoking,

EMPHASISING also the need to combat fraud and smuggling and to protect the financial interests of all the parties concerned,

UNDERLINING that this Protocol is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to sovereignty and jurisdiction,

TAKING NOTE of the Memoranda of Understanding concluded between the Kingdom of Spain and the United Kingdom on 29 November 2018 in relation to citizens' rights, tobacco and other products, cooperation on environmental matters and cooperation in police and customs matters, as well as the agreement reached on 29 November 2018 to conclude a treaty on taxation and the protection of financial interests,

HAVE AGREED UPON the following provisions, which shall be annexed to the Withdrawal Agreement:

*Article 1***Citizens' rights**

1. The Kingdom of Spain ('Spain') and the United Kingdom in respect of Gibraltar shall closely cooperate with a view to preparing and underpinning the effective implementation of Part Two of the Withdrawal Agreement on citizens' rights, which fully applies, *inter alia*, to frontier workers residing in Gibraltar or in Spain, in particular in the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar, and which, in Articles 24 and 25 provide for specific rights for frontier workers.
2. To that effect, the competent authorities shall exchange up-to-date information on a quarterly basis on persons covered by Part Two of the Withdrawal Agreement who reside in Gibraltar or in the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar, including, in particular, frontier workers.

3. Spain and the United Kingdom shall establish a coordinating committee as a forum for regular discussion between the competent authorities to monitor matters relating to employment and labour conditions. That coordinating committee shall report to the Committee on issues related to the implementation of the Protocol on Gibraltar established by Article 165 of the Withdrawal Agreement ('Specialised Committee') on a regular basis.

#### *Article 2*

### **Air transport law**

Union law on air transport which did not apply to the Gibraltar airport before 30 March 2019 shall only become applicable to the Gibraltar airport from the date established by the Joint Committee. The Joint Committee shall adopt the decision thereon upon notification by the United Kingdom and Spain that they have reached a satisfactory agreement on the use of the Gibraltar airport.

#### *Article 3*

### **Fiscal matters and protection of financial interests**

1. Spain and the United Kingdom in respect of Gibraltar shall establish the forms of cooperation necessary to achieve full transparency in tax matters and in respect of the protection of financial interests of all the parties concerned, in particular by establishing an enhanced system of administrative cooperation to fight against fraud, smuggling and money laundering, and to resolve tax residence conflicts.

2. The international standards of the Group of Twenty (G20) and of the Organisation for Economic Co-operation and Development (OECD) relating to good fiscal governance, transparency, exchanges of information and harmful tax practices and in particular the economic substance criteria established by the OECD Forum on Harmful Tax Practices shall be complied with in Gibraltar, with a view to Gibraltar's participation in the OECD Inclusive Framework on base erosion and profit shifting (BEPS).

3. The United Kingdom shall ensure that its ratification of the Framework Convention on Tobacco Control, adopted in Geneva on 21 May 2003, and the Protocol to Eliminate Illicit Trade in Tobacco Products, adopted in Seoul on 12 November 2012, is extended to Gibraltar by 30 June 2020.

Without prejudice to the first subparagraph, the United Kingdom shall ensure that a system of traceability and security measures relating to tobacco products that is equivalent to the requirements and standards of Union law is in force in Gibraltar by 30 June 2020. That system shall ensure reciprocal access to the information on traceability of cigarettes in Spain and Gibraltar.

4. In order to prevent and deter the smuggling of products subject to excise duties or special taxes, the United Kingdom shall ensure that, in respect of alcohol and petrol, a tax system which aims at preventing fraudulent activities involving those products is in force in Gibraltar.

#### *Article 4*

### **Environment protection and fishing**

Spain and the United Kingdom shall establish a coordinating committee as a forum for regular discussion between the competent authorities of issues concerning in particular waste management, air quality, scientific research and fishing. The Union shall be invited to participate in the meetings of that coordinating committee. That coordinating committee shall report to the Specialised Committee on a regular basis.

#### *Article 5*

### **Cooperation in police and customs matters**

Spain and the United Kingdom shall establish a coordination committee as a forum for monitoring and for coordination between the competent authorities of any questions related to cooperation in police and customs matters. The Union shall be invited to participate in the meetings of that coordination committee. That coordinating committee shall report to the Specialised Committee on a regular basis.

*Article 6***Tasks of the Specialised Committee**

The Specialised Committee shall:

- (a) facilitate the implementation and application of this Protocol;
  - (b) discuss any point of relevance to this Protocol giving rise to a difficulty and raised by the Union or the United Kingdom;
  - (c) examine the reports from the coordination committees referred to in this Protocol; and
  - (d) make recommendations to the Joint Committee as regards the functioning of this Protocol.
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ANNEXES

## ANNEX I

## SOCIAL SECURITY COORDINATION

## PART I

## DECISIONS AND RECOMMENDATIONS OF THE ADMINISTRATIVE COMMISSION

## Applicable legislation (A series):

- Decision A1 of 12 June 2009 concerning the establishment of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provisions of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council <sup>(1)</sup>;
- Decision A2 of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State <sup>(2)</sup>;
- Decision A3 of 17 December 2009 concerning the aggregation of uninterrupted posting periods completed under the Council Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council <sup>(3)</sup>.

## Electronic Data Exchange (E series):

- Decision E2 of 3 March 2010 concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI <sup>(4)</sup>;
- Decision E4 of 13 March 2014 concerning the transitional period as defined in Article 95 of Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(5)</sup>;
- Decision E5 of 16 March 2017 concerning the practical arrangements for the transitional period for the data exchange via electronic means referred to in Article 4 of Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(6)</sup>.

## Family benefits (F series):

- Decision F1 of 12 June 2009 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 of the European Parliament and of the Council relating to priority rules in the event of overlapping of family benefits <sup>(7)</sup>;
- Decision F2 of 23 June 2015 concerning the exchange of data between institutions for the purpose of granting family benefits <sup>(8)</sup>.

## Horizontal issues (H series):

- Decision H1 of 12 June 2009 concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems <sup>(9)</sup>;
- Decision H3 of 15 October 2009 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(10)</sup>;
- Decision H4 of 22 December 2009 concerning the composition and working methods of the Audit Board of the Administrative Commission for the Coordination of Social Security Systems <sup>(11)</sup>;

<sup>(1)</sup> OJ C 106, 24.4.2010, p. 1.

<sup>(2)</sup> OJ C 106, 24.4.2010, p. 5.

<sup>(3)</sup> OJ C 149, 8.6.2010, p. 3.

<sup>(4)</sup> OJ C 187, 10.7.2010, p. 5.

<sup>(5)</sup> OJ C 152, 20.5.2014, p. 21.

<sup>(6)</sup> OJ C 233, 19.7.2017, p. 3.

<sup>(7)</sup> OJ C 106, 24.4.2010, p. 11.

<sup>(8)</sup> OJ C 52, 11.2.2016, p. 11.

<sup>(9)</sup> OJ C 106, 24.4.2010, p. 13.

<sup>(10)</sup> OJ C 106, 24.4.2010, p. 56.

<sup>(11)</sup> OJ C 107, 27.4.2010, p. 3.

- Decision H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems <sup>(12)</sup>;
- Decision H6 of 16 December 2010 concerning the application of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) No 883/2004 on the coordination of social security systems <sup>(13)</sup>;
- Decision H7 of 25 June 2015 on the revision of Decision H3 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems <sup>(14)</sup>;
- Decision H8 of 17 December 2015 (updated with minor technical clarifications on 9 March 2016) concerning the methods of operation and the composition of the Technical Commission for data processing of the Administrative Commission for the coordination of social security systems <sup>(15)</sup>;
- Recommendation H1 of 19 June 2013 concerning the Gottardo judgment, according to which the advantages enjoyed by a State's own nationals under a bilateral convention on social security with a non-member country must also be granted to workers who are nationals of other Member States <sup>(16)</sup>.

Pensions (P series):

- Decision P1 of 12 June 2009 on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-age and survivors' benefits <sup>(17)</sup>.

Recovery (R series):

- Decision R1 of 20 June 2013 concerning the interpretation of Article 85 of Regulation (EC) No 987/2009 <sup>(18)</sup>.

Sickness (S series):

- Decision S1 of 12 June 2009 concerning the European Health Insurance Card <sup>(19)</sup>;
- Decision S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card <sup>(20)</sup>;
- Decision S3 of 12 June 2009 defining the benefits covered by Articles 19(1) and 27(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council and Article 25(A)(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(21)</sup>;
- Decision S5 of 2 October 2009 on interpretation of the concept of 'benefits in kind' as defined in Article 1(va) of Regulation (EC) No 883/2004 of the European Parliament and of the Council in the event of sickness or maternity pursuant to Articles 17, 19, 20, 22, 24(1), 25, 26, 27(1, 3, 4 and 5), 28, 34 and 36(1 and 2) of Regulation (EC) No 883/2004 and on calculation of the amounts to be refunded under Articles 62, 63 and 64 of Regulation (EC) No 987/2009 of the European Parliament and of the Council <sup>(22)</sup>;
- Decision S6 of 22 December 2009 concerning the registration in the Member State of residence under Article 24 of Regulation (EC) No 987/2009 and the compilation of the inventories provided for in Article 64(4) of Regulation (EC) No 987/2009 <sup>(23)</sup>;
- Decision S8 of 15 June 2011 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 33 of Regulation (EC) No 883/2004 on the coordination of social security systems <sup>(24)</sup>;
- Decision S9 of 20 June 2013 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004 <sup>(25)</sup>;

<sup>(12)</sup> OJ C 149, 8.6.2010, p. 5.

<sup>(13)</sup> OJ C 45, 12.2.2011, p. 5.

<sup>(14)</sup> OJ C 52, 11.2.2016, p. 13.

<sup>(15)</sup> OJ C 263, 20.7.2016, p. 3.

<sup>(16)</sup> OJ C 279, 27.9.2013, p. 13.

<sup>(17)</sup> OJ C 106, 24.4.2010, p. 21.

<sup>(18)</sup> OJ C 279, 27.9.2013, p. 11.

<sup>(19)</sup> OJ C 106, 24.4.2010, p. 23.

<sup>(20)</sup> OJ C 106, 24.4.2010, p. 26.

<sup>(21)</sup> OJ C 106, 24.4.2010, p. 40.

<sup>(22)</sup> OJ C 106, 24.4.2010, p. 54.

<sup>(23)</sup> OJ C 107, 27.4.2010, p. 6.

<sup>(24)</sup> OJ C 262, 6.9.2011, p. 6.

<sup>(25)</sup> OJ C 279, 27.9.2013, p. 8.

- Decision S10 of 19 December 2013 concerning the transition from Regulations (EEC) Nos 1408/71 and 574/72 to Regulations (EC) Nos 883/2004 and 987/2009 and the application of reimbursement procedures <sup>(26)</sup>;
- Recommendation S1 of 15 March 2012 concerning financial aspects of cross-border living organ donations <sup>(27)</sup>;
- Recommendation S2 of 22 October 2013 concerning the entitlement to benefits in kind for insured persons and members of their family during a stay in a third country under a bilateral convention between the competent Member State and the third country <sup>(28)</sup>.

#### Unemployment (U series):

- Decision U1 of 12 June 2009 concerning Article 54(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council relating to increases in unemployment benefit for dependent members of the family <sup>(29)</sup>;
- Decision U2 of 12 June 2009 concerning the scope of Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the right to unemployment benefits of wholly unemployed persons other than frontier workers who were resident in the territory of a Member State other than the competent Member State during their last period of employment or self-employment <sup>(30)</sup>;
- Decision U3 of 12 June 2009 concerning the scope of the concept of 'partial unemployment' applicable to the unemployed persons referred to in Article 65(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council <sup>(31)</sup>;
- Decision U4 of 13 December 2011 concerning the reimbursement procedures under Article 65(6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009 <sup>(32)</sup>;
- Recommendation U1 of 12 June 2009 concerning the legislation applicable to unemployed persons engaging in part-time professional or trade activity in a Member State other than the State of residence <sup>(33)</sup>;
- Recommendation U2 of 12 June 2009 concerning the application of Article 64(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council to unemployed persons accompanying their spouses or partners pursuing a professional or trade activity in a Member State other than the competent State <sup>(34)</sup>.

## PART II

### ACTS REFERRED TO

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems <sup>(35)</sup>, as amended by:

- Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 <sup>(36)</sup>;
- Commission Regulation (EU) No 1244/2010 of 9 December 2010 <sup>(37)</sup>;
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 <sup>(38)</sup>;
- Commission Regulation (EU) No 1224/2012 of 18 December 2012 <sup>(39)</sup>;
- Council Regulation (EU) No 517/2013 of 13 May 2013 <sup>(40)</sup>;
- Commission Regulation (EU) No 1372/2013 of 19 December 2013 <sup>(41)</sup>, as amended by Commission Regulation (EU) No 1368/2014 of 17 December 2014 <sup>(42)</sup>;
- Commission Regulation (EU) 2017/492 of 21 March 2017 <sup>(43)</sup>.

<sup>(26)</sup> OJ C 152, 20.5.2014, p. 16.

<sup>(27)</sup> OJ C 240, 10.8.2012, p. 3.

<sup>(28)</sup> OJ C 46, 18.2.2014, p. 8.

<sup>(29)</sup> OJ C 106, 24.4.2010, p. 42.

<sup>(30)</sup> OJ C 106, 24.4.2010, p. 43.

<sup>(31)</sup> OJ C 106, 24.4.2010, p. 45.

<sup>(32)</sup> OJ C 57, 25.2.2012, p. 4.

<sup>(33)</sup> OJ C 106, 24.4.2010, p. 49.

<sup>(34)</sup> OJ C 106, 24.4.2010, p. 51.

<sup>(35)</sup> OJ L 166, 30.4.2004, p. 1.

<sup>(36)</sup> OJ L 284, 30.10.2009, p. 43.

<sup>(37)</sup> OJ L 338, 22.12.2010, p. 35.

<sup>(38)</sup> OJ L 149, 8.6.2012, p. 4.

<sup>(39)</sup> OJ L 349, 19.12.2012, p. 45.

<sup>(40)</sup> OJ L 158, 10.6.2013, p. 1.

<sup>(41)</sup> OJ L 346, 20.12.2013, p. 27.

<sup>(42)</sup> OJ L 366, 20.12.2014, p. 15.

<sup>(43)</sup> OJ L 76, 22.3.2017, p. 13.

Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems <sup>(44)</sup>, as amended by:

- Commission Regulation (EU) No 1244/2010 of 9 December 2010 <sup>(45)</sup>;
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 <sup>(46)</sup>;
- Commission Regulation (EU) No 1224/2012 of 18 December 2012 <sup>(47)</sup>;
- Commission Regulation (EU) No 1372/2013 of 19 December 2013 <sup>(48)</sup>;
- Commission Regulation (EU) No 1368/2014 of 17 December 2014 <sup>(49)</sup>;
- Commission Regulation (EU) 2017/492 of 21 March 2017 <sup>(50)</sup>.

### PART III

#### ADAPTATIONS TO REGULATION (EC) NO 883/2004 AND REGULATION (EC) NO 987/2009

The provisions of Regulation (EC) No 883/2004 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex II:

'UNITED KINGDOM-GERMANY

- (a) Article 7(5) and (6) of the Convention on social security of 20 April 1960 (legislation applicable to civilians serving in the military forces);
- (b) Article 5(5) and (6) of the Convention on unemployment insurance of 20 April 1960 (legislation applicable to civilians serving in the military forces).

UNITED KINGDOM-IRELAND

Article 19(2) of the Agreement of 14 December, 2004 on social security (concerning the transfer and reckoning of certain disability credits).';

- (b) the following shall be added to Annex III:

'UNITED KINGDOM';

- (c) the following shall be added to Annex VI:

'UNITED KINGDOM

Employment and Support Allowance (ESA)

- (a) For awards granted before 1 April 2016 ESA is a cash sickness benefit for the initial 91 days (Assessment Phase). From the 92nd day ESA (Main Phase) becomes an invalidity benefit.
- (b) For awards granted on or after 1 April 2016 ESA is a cash sickness benefit for the initial 365 days (Assessment Phase). From the 366th day ESA (Support Group) becomes an invalidity benefit.

Great Britain legislation: Part 1 of the Welfare Reform Act 2007.

Northern Ireland legislation: Part 1 of the Welfare Reform Act (Northern Ireland) 2007.;

- (d) the following shall be added to Part 1 of Annex VIII:

'UNITED KINGDOM

All applications for retirement pension, state pension pursuant to Part 1 of the Pensions Act 2014, widows' and bereavement benefits, with the exception of those for which during a tax year beginning on or after 6 April 1975:

- (i) the party concerned had completed periods of insurance, employment or residence under the legislation of the United Kingdom and another Member State; and one (or more) of the tax years was not considered a qualifying year within the meaning of the legislation of the United Kingdom;

<sup>(44)</sup> OJ L 284, 30.10.2009, p. 1.

<sup>(45)</sup> OJ L 338, 22.12.2010, p. 35.

<sup>(46)</sup> OJ L 149, 8.6.2012, p. 4.

<sup>(47)</sup> OJ L 349, 19.12.2012, p. 45.

<sup>(48)</sup> OJ L 346, 20.12.2013, p. 27.

<sup>(49)</sup> OJ L 366, 20.12.2014, p. 15.

<sup>(50)</sup> OJ L 76, 22.3.2017, p. 13.

- (ii) the periods of insurance completed under the legislation in force in the United Kingdom for the periods prior to 5 July 1948 would be taken into account for the purposes of Article 52(1)(b) of the Regulation by application of the periods of insurance, employment or residence under the legislation of another Member State.

All applications for additional pension pursuant to the Social Security Contributions and Benefits Act 1992, section 44, and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, section 44.;

- (e) the following shall be added to Part 2 of Annex VIII:

'UNITED KINGDOM

Graduated retirement benefits paid pursuant to the National Insurance Act 1965, sections 36 and 37, and the National Insurance Act (Northern Ireland) 1966, sections 35 and 36.;

- (f) the following shall be added to Annex X:

'UNITED KINGDOM

- (a) State Pension Credit (State Pension Credit Act 2002 and State Pension Credit Act (Northern Ireland) 2002);
- (b) Income-based allowances for jobseekers (Jobseekers Act 1995 and Jobseekers (Northern Ireland) Order 1995);
- (d) Disability Living Allowance mobility component (Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992);
- (e) Employment and Support Allowance Income-related (Welfare Reform Act 2007 and Welfare Reform Act (Northern Ireland) 2007).;

- (g) the following shall be added to Annex XI:

'UNITED KINGDOM

- 1. Where, in accordance with United Kingdom legislation, a person may be entitled to a retirement pension if:

- (a) the contributions of a former spouse are taken into account as if they were that person's own contributions;  
or
- (b) the relevant contribution conditions are satisfied by that person's spouse or former spouse, then provided, in each case, that the spouse or former spouse is or had been exercising an activity as an employed or self-employed person, and had been subject to the legislation of two or more Member States, the provisions of Chapter 5 of Title III of this Regulation shall apply in order to determine entitlement under United Kingdom legislation. In this case, references in the said Chapter 5 to 'periods of insurance' shall be construed as references to periods of insurance completed by:
  - (i) a spouse or former spouse where a claim is made by:
    - a married woman, or
    - a person whose marriage has terminated otherwise than by the death of the spouse; or
  - (ii) a former spouse, where a claim is made by:
    - a widower who immediately before pensionable age is not entitled to widowed parent's allowance, or
    - a widow who immediately before pensionable age is not entitled to widowed mother's allowance, widowed parent's allowance or widow's pension, or who is only entitled to an age-related widow's pension calculated pursuant to Article 52(1)(b) of this Regulation, and for this purpose 'age-related widow's pension' means a widow's pension payable at a reduced rate in accordance with section 39(4) of the Social Security Contributions and Benefits Act 1992.

- 2. For the purposes of applying Article 6 of this Regulation to the provisions governing entitlement to attendance allowance, carer's allowance and disability living allowance, a period of employment, self-employment or residence completed in the territory of a Member State other than the United Kingdom shall be taken into account insofar as is necessary to satisfy conditions as to required periods of presence in the United Kingdom, prior to the day on which entitlement to the benefit in question first arises.

3. For the purposes of Article 7 of this Regulation, in the case of invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants, any beneficiary under United Kingdom legislation who is staying in the territory of another Member State shall, during that stay, be considered as if he resided in the territory of that other Member State.
4. Where Article 46 of this Regulation applies, if the person concerned suffers incapacity for work leading to invalidity while subject to the legislation of another Member State, the United Kingdom shall, for the purposes of Section 30A (5) of the Social Security Contributions and Benefits Act 1992, take account of any periods during which the person concerned has received, in respect of that incapacity for work:
  - (i) cash sickness benefits or wages or salary in lieu thereof; or
  - (ii) benefits within the meaning of Chapters 4 and 5 of Title III of this Regulation granted in respect of the invalidity which followed that incapacity for work, under the legislation of the other Member State, as though they were periods of short-term incapacity benefit paid in accordance with Sections 30A (1)-(4) of the Social Security Contributions and Benefits Act 1992.

In applying this provision, account shall only be taken of periods during which the person would have been incapable of work within the meaning of United Kingdom legislation.

5. (1) For the purpose of calculating an earnings factor in order to determine entitlement to benefits under United Kingdom legislation, for each week of activity as an employed person under the legislation of another Member State, and which commenced during the relevant income tax year within the meaning of United Kingdom legislation, the person concerned shall be deemed to have paid contributions as an employed earner, or have earnings on which contributions have been paid, on the basis of earnings equivalent to two-thirds of that year's upper earnings limit.
- (2) For the purposes of Article 52(1)(b)(ii) of this Regulation, where:
  - (a) in any income tax year starting on or after 6 April 1975, a person carrying out activity as an employed person has completed periods of insurance, employment or residence exclusively in a Member State other than the United Kingdom, and the application of point 5(1) above results in that year being counted as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, he shall be deemed to have been insured for 52 weeks in that year in that other Member State;
  - (b) any income tax year starting on or after 6 April 1975 does not count as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, any periods of insurance, employment or residence completed in that year shall be disregarded.
- (3) For the purpose of converting an earnings factor into periods of insurance, the earnings factor achieved in the relevant income tax year within the meaning of United Kingdom legislation shall be divided by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated shall be treated as representing the number of weeks of insurance completed under United Kingdom legislation during that year, provided that such figure shall not exceed the number of weeks during which in that year the person was subject to that legislation.

The provisions of Regulation (EC) No 987/2009 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex 1:

UNITED KINGDOM-BELGIUM

- (a) The Exchange of Letters of 4 May and 14 June 1976 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)
- (b) The Exchange of Letters of 18 January and 14 March 1977 regarding Article 36(3) of Regulation (EEC) No 1408/71 (arrangement for reimbursement or waiving of reimbursement of the costs of benefits in kind provided under the terms of Chapter 1 of Title III of Regulation (EEC) No 1408/71) as amended by the Exchange of Letters of 4 May and 23 July 1982 (agreement for reimbursement of costs incurred under Article 22(1)(a) of Regulation (EEC) No 1408/71)

UNITED KINGDOM-DENMARK

The Exchange of Letters of 30 March and 19 April 1977 as modified by an Exchange of Letters of 8 November 1989 and of 10 January 1990 on agreement of waiving of reimbursement of the costs of benefits in kind and administrative checks and medical examinations

## UNITED KINGDOM-ESTONIA

The Arrangement finalised on 29 March 2006 between the Competent Authorities of the Republic of Estonia and of the United Kingdom under Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 establishing other methods of reimbursement of the costs of benefits in kind provided under this Regulation by both countries with effect from 1 May 2004

## UNITED KINGDOM-IRELAND

The Exchange of Letters of 9 July 1975 regarding Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 (arrangement for reimbursement or waiving of reimbursement of the costs of benefits in kind provided under the terms of Chapter 1 or 4 of Title III of Regulation (EEC) No 1408/71) and Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)

## UNITED KINGDOM-SPAIN

The Agreement of 18 June 1999 on the reimbursement of costs for benefits in kind granted pursuant to the provisions of Regulations (EEC) No 1408/71 and (EEC) No 574/72

## UNITED KINGDOM-FRANCE

- (a) The Exchange of Letters of 25 March and 28 April 1997 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)
- (b) The Agreement of 8 December 1998 on the specific methods of determining the amounts to be reimbursed for benefits in kind pursuant to Regulations (EEC) No 1408/71 and (EEC) No 574/72

## UNITED KINGDOM-ITALY

The Arrangement signed on 15 December 2005 between the Competent Authorities of the Italian Republic and of the United Kingdom under Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 establishing other methods of reimbursement of the costs of benefits in kind provided under this Regulation by both countries with effect from 1 January 2005

## UNITED KINGDOM-LUXEMBOURG

The Exchange of Letters of 18 December 1975 and 20 January 1976 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs entailed in administrative checks and medical examinations referred to in Article 105 of Regulation (EEC) No 574/72)

## UNITED KINGDOM-HUNGARY

The Arrangement finalised on 1 November 2005 between the Competent Authorities of the Republic of Hungary and of the United Kingdom under Articles 35(3) and 41(2) of Regulation (EEC) No 883/2004 establishing other methods of reimbursement of the costs of benefits in kind provided under that Regulation by both countries with effect from 1 May 2004

## UNITED KINGDOM-MALTA

The Arrangement finalised on 17 January 2007 between the Competent Authorities of Malta and of the United Kingdom under Articles 35(3) and 41(2) of Regulation (EEC) No 883/2004 establishing other methods of reimbursement of the costs of benefits in kind provided under that Regulation by both countries with effect from 1 May 2004

## UNITED KINGDOM-NETHERLANDS

The second sentence of Article 3 of the Administrative Arrangement of 12 June 1956 on the implementation of the Convention of 11 August 1954

## UNITED KINGDOM-PORTUGAL

The Arrangement of 8 June 2004 establishing other methods of reimbursement of the costs of benefits in kind provided by both countries with effect from 1 January 2003



## UNITED KINGDOM-FINLAND

The Exchange of Letters 1 and 20 June 1995 concerning Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 (reimbursement or waiving of reimbursement of the cost of benefits in kind) and Article 105(2) of Regulation (EEC) 574/72 (waiving of reimbursement of the cost of administrative checks and medical examinations)

## UNITED KINGDOM-SWEDEN

The Arrangement of 15 April 1997 concerning Article 36(3) and Article 63(3) of Regulation (EEC) No 1408/71 (reimbursement or waiving of reimbursement of the cost of benefits in kind) and Article 105(2) of Regulation (EEC) No 574/72 (waiving of refunds of the costs of administrative checks and medical examinations);

(b) the following shall be added to Annex 3:

'UNITED KINGDOM'.

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## ANNEX II

## PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 41(4)

1. Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine <sup>(1)</sup>.
2. Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals <sup>(2)</sup>.
3. Chapter II of Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae <sup>(3)</sup>.
4. Chapter II of Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs <sup>(4)</sup>.
5. Chapter II of Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC <sup>(5)</sup>.
6. Chapter II of Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species <sup>(6)</sup>.
7. Chapter II of Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species <sup>(7)</sup>.
8. Chapter II of Council Directive 90/429/EEC of 26 June 1990 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species <sup>(8)</sup>.
9. Chapter III of Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals <sup>(9)</sup>.
10. Chapter II of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 <sup>(10)</sup>.

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<sup>(1)</sup> OJ L 21, 29.7.1964, p. 1977.

<sup>(2)</sup> OJ L 46, 19.2.1991, p. 19.

<sup>(3)</sup> OJ L 192, 23.7.2010, p. 1.

<sup>(4)</sup> OJ L 343, 22.12.2009, p. 74.

<sup>(5)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(6)</sup> OJ L 302, 19.10.1989, p. 1.

<sup>(7)</sup> OJ L 194, 22.7.1988, p. 10.

<sup>(8)</sup> OJ L 224, 18.8.1990, p. 62.

<sup>(9)</sup> OJ L 328, 24.11.2006, p. 14.

<sup>(10)</sup> OJ L 178, 28.6.2013, p. 1.

## ANNEX III

## TIME LIMITS FOR THE SITUATIONS OR CUSTOMS PROCEDURES REFERRED TO IN ARTICLE 49(1)

The time limits set out in this Annex are the relevant end dates for the application of Regulation (EU) No 952/2013.

Situation / procedure	Time limit
<b>1. Temporary storage</b>	<b>90 days</b> , Article 149 of Regulation (EU) No 952/2013
<b>2. Release for free circulation</b>	1 month + 10 days after acceptance of the declaration, Article 146(3) of Delegated Regulation (EU) 2015/2446 <sup>(1)</sup> concerning the supplementary declaration; 'reasonable period of time' as regards verification, Article 194 of Regulation (EU) No 952/2013 <b>Maximum: 60 days</b>
<b>3. Special procedures</b>	Period for discharge is obligatory for inward processing, outward processing, end-use and temporary admission (D.E. 4/17 in Annex A to Delegated Regulation (EU) 2015/2446). Discharge by placing under a subsequent customs procedure, taking out of the customs territory or being destroyed, Article 215(1) of Regulation (EU) No 952/2013.
(a) <b>Union transit</b>	<b>Maximum: 12 months after release</b>
(b) <b>Customs warehousing</b>	<b>Maximum: 12 months after the end of the transition period</b>
(c) <b>Free zones</b>	<b>At the end of the transition period</b>
(d) <b>Temporary admission</b>	<b>Maximum: 12 months after release</b>
(e) <b>End-use</b>	<b>Maximum: 12 months after release</b>
(f) <b>Inward processing</b>	<b>Maximum: 12 months after release</b>
(g) <b>Outward processing</b>	<b>Maximum: 12 months after release</b>
<b>4. Export</b>	<b>150 days after release</b>
<b>5. Re-export</b>	<b>150 days after release</b>

<sup>(1)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

## ANNEX IV

## LIST OF NETWORKS, INFORMATION SYSTEMS AND DATABASES REFERRED IN ARTICLES 50, 53, 99 AND 100

1. Backwards compatibility for the United Kingdom and the Union shall be established to ensure that, for any changes that are made to the networks, information systems and databases, as well as for any changes to formats for exchanging information, the Member States and the United Kingdom can continue to accept each other's information in the current format, unless the Union and the United Kingdom agree otherwise.
2. The United Kingdom's access to any given network, information system or database shall be limited in time. The respective time period is indicated for each network, information system or database. Where exchanges of information between customs authorities would be required for the implementation of procedures in accordance with Article 49 once electronic data-processing is no longer possible in accordance with this Annex, alternative means for the exchange and storage of information shall be used.

## Part I: Customs

Customs IT system	Type of access	Time limit
<b>ICS</b> (Import Control System)	Lodgement of the pre-arrival declaration limited to: <ul style="list-style-type: none"> <li>— Receiving and sending entry summary declaration (ENS) data on declarations lodged before the end of the transition period (in the case of subsequent ports or diversion);</li> <li>— Receiving and sending risk data on those declarations lodged before the end of the transition period.</li> </ul>	31 July 2021
<b>NCTS</b> (New Computerised Transit System)	All functionalities applied to ongoing transit operations, i.e. movements released for transit before the end of the transition period. [No release of new transit operations after the end of the transition period.]	31 January 2021
<b>ECS</b> (Export Control System)	<b>Confirmation of exit for ongoing export operations</b> , i.e. goods released for export before the end of the transition period: <ul style="list-style-type: none"> <li>— For operations with the customs offices of exit in the United Kingdom to confirm in ECS the exit of the goods;</li> <li>— For operations with the customs offices of exit in Member States, i.e. the customs offices of export in the United Kingdom to receive the confirmations of exit from the Member States' customs offices of exit.</li> </ul>	31 January 2021
<b>INF</b> (Information Sheet)	<ul style="list-style-type: none"> <li>— Read only access to INF Specific Trader Portal for United Kingdom traders;</li> <li>— Read/write access to active INFs in INF system for customs offices.</li> </ul>	31 December 2021
<b>SURV-RECAP</b> (Tariff Surveillance System – Receiving Application)	<b>Transmission by the United Kingdom's customs authorities of data elements for release for free circulation (RFC) or export procedures:</b> <ul style="list-style-type: none"> <li>— Surveillance Declaration Records (SDRs) not yet transmitted for RFC or export procedures under which the goods were placed before the end of the transition period;</li> </ul>	28 February 2021

Customs IT system	Type of access	Time limit
	— SDRs elements for RFC ending or discharging an ongoing procedure or situation.	
<b>EBTI3</b> (European Binding Tariff Information)	<b>Input for the calculation of customs debt:</b> Access to information pertaining to decisions related to BTI or any subsequent event which may affect the original application or decision [full access for consultation].	8 January 2021
<b>TARIC3</b> (Integrated Customs Tariff of the Community)	<b>Input for the calculation of customs debt:</b> Transmissions of daily updates to the United Kingdom after the end of the transition period, with the exception of confidential data (statistical surveillance data).	31 December 2021
<b>QUOTA2</b> (System for Managing Tariff Quotas, Ceilings and other Surveillances)	<b>Input for the calculation of customs debt:</b> Management of quotas, cancellation of requests for quotas and returns of unused allocated quantities.	6 January 2021
<b>SMS TRA, EXP</b> (Specimen Management System)	Read-only access to the database with specimens of stamps, seals and certificates.	31 January 2021
<b>SMS QUOTA</b> (Specimen Management System)	Read-only access to the database with certificates of authenticity necessary in order to benefit from the quotas.	6 January 2021
<b>OWNRES</b> (Own Resources reporting of cases of fraud and irregularities involving traditional own resources (TOR) in excess of EUR 10 000, Article 5(1) of Regulation (EU, Euratom) No 608/2014)	Limited access restricted to cases involving the United Kingdom (no access to global analyses).	20 February 2026
<b>WOMIS</b> (Write-off management information system for TOR case-reports under Article 13(3) of Regulation (EU, Euratom) No 609/2014)	Full access, as by default already limited to national write-off reports (read-only access as from 1 July 2025 in the framework of the liquidation of the separate account by 31 December 2025).	30 June 2025
Supporting system	Type of access	Time limit
<b>EOS/EORI</b> (Economic Operators System – Economic Operators Registration and Identification)	Read-only access for the related systems.	31 December 2021
<b>CDS</b> (Customs Decisions System)	Read-only access for traders in the United Kingdom and for customs offices in the United Kingdom.	31 January 2021

Supporting system	Type of access	Time limit
<b>CS/RD2</b> (Central Services/Reference Data)	Read-only access for Reference Data; Write access for customs offices of NA-UK only.	31 December 2021
<b>CS/MIS</b> (Central Services/Management Information System)	Write-only access for uploading unavailabilities and business statistics.	31 July 2021
<b>GTP</b> (Generic Trader Portal)	Access to the generic functions of the portal for traders in the United Kingdom until the last Specific Trader Portal is switched off for traders in the United Kingdom.	31 December 2021

Network and infrastructure	Type of access	Time limit
<b>CCN</b> (Common Communication Network)	Linked to the access for the related systems.	31 December 2021 (or longer if required for excise or taxation)
<b>UUM&amp;DS</b> (Uniform User Management and Digital Signatures)	Linked to the access for the related systems.	31 December 2021 (or longer if required for excise or taxation)
<b>CCN2</b> (Common Communication Network 2)	Linked to the access for the related systems.	31 December 2021 (or longer if required for excise or taxation)

## Part II: Excise

Excise IT system	Type of access	Time limit
<b>EMCS Core</b> (Excise Movement Control System)	Duty suspension: Transmissions to and from the United Kingdom of reports of receipt / reports of export (IE818).	31 May 2021
<b>EMCS Admin Coop</b> (Excise Movement Control System Administrative Cooperation)	— Transmissions to and from the United Kingdom of messages relating to open movements (event reports, control reports, administrative cooperation (enquiries on open EMCS movements);	31 May 2021
	— Member States and the United Kingdom shall keep EMCS Administrative Cooperation online to allow queries and audits on movements up to the end of the transition period.	31 December 2024

Supporting system	Type of access	Time limit
<b>SEED</b> (System for the Exchange of Excise Data)	Read only, with United Kingdom's economic operators invalidated.	31 May 2021
<b>CS/MISE</b> (Central Services/Management Information System for EMCS)	Filtered to restrict to movements involving the United Kingdom.	31 May 2021

Network and infrastructure	Type of access	Time limit
<b>CCN</b> (Common Communication Network)	Linked to the access for the related systems.	31 May 2021 (or longer if required for excise or taxation)

## Part III: VAT

VAT IT system	Type of access	Time limit
<b>VAT-VIES</b> (VAT Information Exchange System)	<p><b>Taxable persons registration information:</b> Reciprocal access to the IT systems, by the United Kingdom and the Member States <sup>(1)</sup>, to exchange, until 31 December 2024, historical registration information of the other party <sup>(2)</sup> (registration data entered in the system before the end of the transition period) as well as registration information of the other party updated after the transition period (e.g. ending of registration of a taxable person).</p> <p><b>Transactions - turnover information:</b> Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to exchange information contained in recapitulative statements submitted to the other party for transactions that took place <sup>(4)</sup> before the end of the transition period and where taxable persons of the receiving party are involved; The United Kingdom and the Member States shall have no access to each other's turnover information related to transactions that take place after 31 December 2020.</p>	<p>31 December 2024 <sup>(3)</sup></p> <p>31 December 2024</p>
VAT Refund	<p>Access to the IT system to:</p> <ul style="list-style-type: none"> <li>— Forward to the Member States the VAT refund applications submitted by taxable persons established in the United Kingdom in accordance with Directive 2008/9/EC and to receive from the Member States the VAT refund applications submitted by taxable persons established in a Member State;</li> </ul>	30 April 2021

VAT IT system	Type of access	Time limit
	— Handle <sup>(5)</sup> VAT refund applications received by the United Kingdom and submitted by taxable persons established in a Member State and VAT refund applications received by the Member States and submitted by taxable persons established in the United Kingdom.	31 January 2022
<b>MOSS</b> (Mini-One-Stop-Shop)	<p><b>Registration Information:</b> Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:</p> <p>— Exchange the registration and historical registration information;</p> <p>— Disseminate information relating to new MOSS registrations, for registrations, the effective date of registration of which is before or on 31 December 2020.</p> <p><b>VAT Return:</b> Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:</p> <p>— Exchange MOSS return information, for returns submitted before or on 31 January 2021;</p> <p>— Exchange amendments relating to MOSS VAT returns submitted before or on 20 January 2021;</p> <p>— Exchange VAT return information for transactions where the other party is involved;</p> <p>— The United Kingdom and the Member States shall have no access to each other's VAT return information of transactions that take place after 31 December 2020.</p> <p><b>Payment information:</b> Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:</p> <p>— Exchange payment information relating to payments received from MOSS registered businesses before or on 31 January 2021;</p> <p>— In respect of taxable transactions in the other party, exchange information relating to reimbursements or payments for amendments relating to MOSS VAT returns submitted before or on 31 December 2021.</p>	<p>31 December 2024</p> <p>20 February 2021</p> <p>20 February 2021</p> <p>20 January 2022</p> <p>31 December 2024</p> <p>20 February 2021</p> <p>20 January 2022</p>

<sup>(1)</sup> For the purposes of this Annex, 'reciprocal access' means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.

<sup>(2)</sup> For the purposes of this Annex, 'other party' means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.

<sup>(3)</sup> The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.

<sup>(4)</sup> Including transactions covered by Article 51(1).

<sup>(5)</sup> For the purposes of this indent, 'handle' means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system.



Supporting system	Type of access	Time limit
<b>CCN/eFCA</b> <b>Administrative cooperation VAT</b> (Common Communications Network/eForm Central Application)	Transmissions between the United Kingdom and the Member States of requests – and follow-up to these requests – with regard to administrative cooperation for VAT purposes.	31 December 2024
<b>TIC VAT Refund preferences</b>	Access by the United Kingdom in order to update the United Kingdom's VAT refund preferences	31 March 2021

## Part IV: Tax and duty recovery assistance

Supporting system	Type of access	Time limit
<b>CCN/eFCA</b> <b>Recovery assistance</b>	Transmissions between the United Kingdom and the Member States of requests – and follow-up of these requests – with regard to recovery assistance.	31 December 2025

## ANNEX V

## EURATOM

This annex sets out the categories of community equipment and other property related to the provision of safeguards located in the United Kingdom under the Euratom Treaty which shall become property of the United Kingdom at the end of the transition period.

At the end of the transition period, the European Commission shall transmit to the United Kingdom the final inventory of Euratom equipment and other property transferred.

In accordance with Article 84(1) and Article 148, the United Kingdom shall reimburse to the Union the value of that equipment and other property, calculated based on the value assigned to that equipment and other property in the consolidated accounts for the year 2020. The said value shall be communicated by European Commission to the United Kingdom upon its final regulatory approval.

The Euratom equipment is located at:

- **Sellafield** <sup>(1)</sup>, the UK nuclear fuel reprocessing site;
- **Dounreay** <sup>(2)</sup>, the UK's former centre of fast reactor research and development;
- **Sizewell** <sup>(3)</sup>, a site with two nuclear power stations, Sizewell A (not in operation) and Sizewell B, a pressurised water reactor still in operation;
- **Capenhurst** <sup>(4)</sup>, a uranium enrichment plant;
- **Springfields** <sup>(5)</sup>, a fuel fabrication plant;
- Other reactors, research, medical and other facilities, where safeguards equipment is being used.

The Euratom equipment comprises various elements consisting of fixed installations and related devices necessary for the use of these fixed installations and forming an inherent part of the whole system installed:

1. Seals:

- Metal seals for single use;
- Fibre optic seals for single and multiple use; and
- Seal readers.

2. Surveillance equipment:

- Digital and analogue single and multiple component safeguards surveillance systems.

3. Measurement equipment (non-destructive assay):

- Various types of gamma detectors with pre-amplifiers and counting electronics for gamma measurements;
- Various types of neutron detectors with pre-amplifiers and counting electronics for neutron measurements; as well as
- Equipment for fresh and spent fuel assembly, Uranium drum and Plutonium can content measurements including rod and fuel assembly scanners, balances and load cells.

4. Laboratory equipment (forming part of the on-site laboratory at Sellafield):

- Mass spectrometer (TIMS);
- gamma and X-ray based measurement instruments (e.g. K-edge densitometry and XRF); and
- Gloveboxes with analytical equipment including densitometer and analytical balances.

To facilitate the most effective handover of this equipment, the United Kingdom and the Community shall make the necessary legal arrangements to release the Community from its obligations and liabilities under its agreement dated 25 March 1994 with British Nuclear Fuels PLC (now Sellafield Ltd).

<sup>(1)</sup> Sellafield Ltd, SELLAFIELD CA20 1PG, UNITED KINGDOM

<sup>(2)</sup> Dounreay Site Restoration Ltd, KW14 7TZ THURSO CAITHNESS, UNITED KINGDOM

<sup>(3)</sup> EDF Energy Nuclear Generation Limited - Sizewell B Power Station, SUFFOLK, IP16 4UR LEISTON

<sup>(4)</sup> Urenco UK Limited, Capenhurst Works, CHESTER CH1 6ER, UNITED KINGDOM

<sup>(5)</sup> Westinghouse Springfields Fuels Ltd, SALWICK PRESTON PR4 OXJ, UNITED KINGDOM

5. Computer and related equipment (in offices and measurements systems):

- Personal computers as well as related equipment including remote data transmission infrastructure (battery packs and power supplies, hardware devices to allow to control multiple computers, network equipment including fibre optics, Ethernet cables and converters, switches, serial servers, virtual private network router, time and domain controller, cabinets); as well as
  - Related servers, screens and printers.
-

## ANNEX VI

## LIST OF ADMINISTRATIVE COOPERATION PROCEDURES REFERRED TO IN ARTICLE 98

1. Administrative cooperation between the Member States related to supplier's declarations on the origin of goods, established for the purpose of preferential trade between the Union and certain countries (Articles 61 to 66 of Implementing Regulation (EU) 2015/2447).
  2. For the verification of proofs of origin issued by third country authorities or agencies authorised by them (special non-preferential import arrangements) (Article 59 of Implementing Regulation (EU) 2015/2447) and for the verification of proofs of origin issued or made out by third country authorities or exporters (preferential arrangements) (Articles 108 to 111 and 125 of Implementing Regulation (EU) 2015/2447, Article 32 of Annex II to Regulation (EU) 2016/1076 of the European Parliament and of the Council, Article 55 of Annex VI to Council Decision 2013/755/EU and the equivalent provisions in preferential agreements).
  3. Mutual assistance in the framework of the recovery of a customs debt (Articles 101(1) and Articles 102(1) of the Regulation (EU) No 952/2013, Article 165 of Implementing Regulation (EU) 2015/2447).
  4. Mutual assistance in the framework of transfer of the amount of customs debt by the Member State which has accepted a guarantee to the Member State where the customs debt is incurred (point (c) of Article 92(1) of Regulation (EU) No 952/2013, Article 153 of Implementing Regulation (EU) 2015/2447).
  5. Verification of proofs of Union status (and administrative assistance) (Article 153 of Regulation (EU) No 952/2013, Article 212 of Implementing Regulation (EU) 2015/2447).
  6. Communication between authorities relating to returned goods (Article 203 of Regulation (EU) No 952/2013, Article 256 of Implementing Regulation (EU) 2015/2447).
  7. Administrative cooperation in the framework of the recovery of other charges for goods placed under temporary admission according to the ATA Convention or the Istanbul Convention (point (c) of Article 226(3) of Regulation (EU) No 952/2013, Article 170 of Implementing Regulation (EU) 2015/2447).
  8. Mutual assistance for obtaining supplementary information in order to decide on an application for remission or repayment (Articles 22 and 116(1) of Regulation (EU) No 952/2013, Article 175 of Implementing Regulation (EU) 2015/2447).
  9. Verification and administrative assistance for post-release controls of the information related to the Union transit operation (Article 48 of Regulation (EU) No 952/2013, Article 292 of Implementing Regulation (EU) 2015/2447).
  10. Administrative cooperation in the framework of the recovery of other charges under transit procedures (points (a), (b) and (c) of Article 226(3) of Regulation (EU) No 952/2013, Articles 167 and 169 of Implementing Regulation (EU) 2015/2447).
  11. Notification of recovery of duties and other charges under the Union transit procedure or under transit according to the TIR Convention (points (a) and (b) of Article 226(3) of Regulation (EU) No 952/2013, Article 168 of Implementing Regulation (EU) 2015/2447).
  12. Direct cooperation and exchange of information between Member States concerning export controls on dual-use items (Article 19(2) of Council Regulation (EC) No 428/2009).
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## ANNEX VII

## LIST OF ACTS/PROVISIONS REFERRED TO IN ARTICLE 128(6)

1. Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (without prejudice to Article 96(1) of this Agreement). <sup>(1)</sup>
2. Titles III and IX of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, <sup>(2)</sup> Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use, <sup>(3)</sup> Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products, <sup>(4)</sup> Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products <sup>(5)</sup>, Titles III and VII of Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, <sup>(6)</sup> Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, <sup>(7)</sup> Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency, <sup>(8)</sup> Commission Implementing Regulation (EU) No 520/2012 of 19 June 2012 on the performance of pharmacovigilance activities provided for in Regulation (EC) No 726/2004 of the European Parliament and of the Council and Directive 2001/83/EC of the European Parliament and of the Council, <sup>(9)</sup> and Commission Regulation (EC) No 1234/2008 of 24 November 2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products. <sup>(10)</sup>
3. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency. <sup>(11)</sup>
4. Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures. <sup>(12)</sup>
5. Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market, <sup>(13)</sup> and Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin. <sup>(14)</sup>
6. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products. <sup>(15)</sup>
7. Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use. <sup>(16)</sup>
8. Article 16 of Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries. <sup>(17)</sup>

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1.

<sup>(2)</sup> OJ L 311, 28.11.2001, p. 67.

<sup>(3)</sup> OJ L 378, 27.12.2006, p. 1.

<sup>(4)</sup> OJ L 324, 10.12.2007, p. 121.

<sup>(5)</sup> OJ L 18, 22.1.2000, p. 1.

<sup>(6)</sup> OJ L 311, 28.11.2001, p. 1.

<sup>(7)</sup> OJ L 152, 16.6.2009, p. 11.

<sup>(8)</sup> OJ L 136, 30.4.2004, p. 1.

<sup>(9)</sup> OJ L 159, 20.6.2012, p. 5.

<sup>(10)</sup> OJ L 334, 12.12.2008, p. 7.

<sup>(11)</sup> OJ L 396, 30.12.2006, p. 1.

<sup>(12)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(13)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(14)</sup> OJ L 70, 16.3.2005, p. 1.

<sup>(15)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(16)</sup> OJ L 158, 27.5.2014, p. 1.

<sup>(17)</sup> OJ L 334, 12.12.2008, p. 25.

9. Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations. <sup>(18)</sup>
  10. Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms, <sup>(19)</sup> point (c) of Article 6(3) of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed. <sup>(20)</sup>
  11. Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods. <sup>(21)</sup>
  12. Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species. <sup>(22)</sup>
  13. Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed. <sup>(23)</sup>
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<sup>(18)</sup> OJ L 131, 28.5.2009, p. 11.

<sup>(19)</sup> OJ L 106, 17.4.2001, p. 1.

<sup>(20)</sup> OJ L 268, 18.10.2003, p. 1.

<sup>(21)</sup> OJ L 404, 30.12.2006, p. 9.

<sup>(22)</sup> OJ L 317, 4.11.2014, p. 35.

<sup>(23)</sup> OJ L 229, 1.9.2009, p. 1.

## ANNEX VIII

## RULES OF PROCEDURE OF THE JOINT COMMITTEE AND SPECIALISED COMMITTEES

*Rule 1***Chair**

1. The Joint Committee shall be co-chaired by a Member of the European Commission and a representative of the Government of the United Kingdom at ministerial level, or by high-level officials designated to act as their alternates. The European Union and the United Kingdom shall notify each other in writing of the designated co-chairs and their alternates.
2. The decisions of the co-chairs provided for by these Rules of Procedure shall be taken by mutual consent.
3. A co-chair who is unable to attend a meeting may be replaced for that meeting by a designee. The co-chair, or his or her designee, shall inform in writing the other co-chair and the Secretariat of the Joint Committee of the designation as early as possible.
4. The designee of the co-chair shall exercise the rights of that co-chair to the extent of the designation. Any reference in these Rules of Procedure to the co-chairs shall be understood to include a designee.

*Rule 2***Secretariat**

The Secretariat of the Joint Committee (the 'Secretariat') shall be composed of an official of the European Commission and an official of the Government of United Kingdom. The Secretariat shall, under the authority of the co-chairs, perform the tasks conferred on it by these Rules of Procedure.

*Rule 3***Participation in meetings**

1. Before each meeting, the Union and the United Kingdom shall inform each other through the Secretariat of the intended composition of the delegations.
2. Where appropriate and by decision of the co-chairs, experts or other persons who are not members of delegations may be invited to attend meetings of the Joint Committee in order to provide information on a particular subject.

*Rule 4***Meetings**

1. The Joint Committee shall hold its meetings alternately in Brussels and London, unless the co-chairs decide otherwise.
2. By way of derogation from paragraph 1, the co-chairs may decide that a meeting of the Joint Committee be held by videoconference or teleconference.
3. Each meeting of the Joint Committee shall be convened by the Secretariat at a date and place decided by the co-chairs. Where either the Union or the United Kingdom has made a request for a meeting, the Joint Committee shall endeavour to meet within 30 days of such request. In cases of urgency it shall endeavour to meet sooner.

*Rule 5***Documents**

Written documents on which the deliberations of the Joint Committee are based shall be numbered and circulated to the Union and the United Kingdom by the Secretariat as documents of the Joint Committee.

*Rule 6***Correspondence**

1. The Union and the United Kingdom shall send their correspondence addressed to the Joint Committee to the Secretariat. Such correspondence may be sent in any form of written communication, including by electronic mail.
2. The Secretariat shall ensure that correspondence addressed to the Joint Committee is forwarded to the co-chairs and is circulated, where appropriate, in accordance with Rule 5.
3. All correspondence from or addressed directly to the co-chairs shall be forwarded to the Secretariat and shall be circulated, where appropriate, in accordance with Rule 5.

*Rule 7***Agenda for the meetings**

1. For each meeting a draft provisional agenda shall be drawn up by the Secretariat. It shall be transmitted, together with the relevant documents, to the co-chairs no later than 15 days before the date of the meeting.
2. The provisional agenda shall include those items, the inclusion of which in the agenda has been requested by the Union or the United Kingdom. Any such request, together with any relevant document, shall be submitted to the Secretariat no later than 21 days before the beginning of the meeting.
3. No later than 10 days before the date of the meeting, the co-chairs shall decide on the provisional agenda for a meeting. They may decide to make that provisional agenda, or any part thereof, public before the beginning of the meeting.
4. The agenda shall be adopted by the Joint Committee at the beginning of each meeting. On request by the Union or the United Kingdom an item other than those included in the provisional agenda may be included in the agenda by decision of the Joint Committee.
5. In exceptional cases, the co-chairs may decide to derogate from the time limits specified in paragraphs 1 and 2.

*Rule 8***Minutes**

1. Draft minutes of each meeting shall be drawn up by the Secretariat, within 21 days from the end of the meeting, unless the co-chairs decide otherwise.
2. The minutes shall, as a rule, summarise each item on the agenda, specifying where applicable:
  - (a) the documents submitted to the Joint Committee;
  - (b) any statement that one of the co-chairs requested to be entered in the minutes; and
  - (c) the decisions adopted, recommendations made, joint statements decided upon and operational conclusions adopted on specific items.
3. The minutes shall include a list of the names, titles and capacity of all individuals who attended the meeting.
4. The minutes shall be approved in writing by the co-chairs within 28 days of the date of the meeting or by any other date decided by the co-chairs. Once approved, two authentic versions of the minutes shall be signed by the members of the Secretariat. The Union and the United Kingdom shall each receive one of these authentic versions. The co-chairs may decide that signing and exchanging electronic copies satisfies this requirement.
5. The Secretariat shall also prepare a summary of the minutes. After having approved the summary, the co-chairs may decide to make it public.



*Rule 9***Decisions and Recommendations**

1. In the period between meetings, the Joint Committee may adopt decisions or recommendations by written procedure, if the co-chairs decide to use this procedure. The written procedure shall consist of an exchange of notes between the co-chairs.
2. Where the Joint Committee adopts decisions or recommendations, the words 'Decision' or 'Recommendation', respectively, shall be inserted in the title of such acts. The Secretariat shall record any decision or recommendation under a serial number and with a reference to the date of its adoption.
3. Decisions adopted by the Joint Committee shall specify the date at which they take effect.
4. Decisions and recommendations adopted by the Joint Committee shall be signed by the co-chairs and shall be sent by the Secretariat to the parties immediately after the signature.

*Rule 10***Publicity and Confidentiality**

1. Unless otherwise decided by the co-chairs, the meetings of the Joint Committee shall be confidential.
2. Where the Union or the United Kingdom submits information considered as confidential or protected from disclosure under its laws and regulations to the Joint Committee or any specialised committee, the other party shall treat that information received as confidential.
3. Without prejudice to paragraph 2, the Union and the United Kingdom may each decide individually on whether to publish, the decisions and recommendations adopted by the Joint Committee in their respective official publication journals.

*Rule 11***Languages**

1. The official languages of the Joint Committee shall be the official languages of the Union and the United Kingdom.
2. The working language of the Joint Committee shall be English. Unless otherwise decided by the co-chairs, the Joint Committee shall base its deliberations on documents prepared in English.

*Rule 12***Expenses**

1. The Union and the United Kingdom shall each meet any expenses they incur as a result of participating in the meetings of the Joint Committee.
2. Expenditure in connection with the organisation of meetings and reproduction of documents shall be borne by the Union for meetings held in Brussels, and by the United Kingdom for meetings held in London.
3. Expenditure in connection with interpretation to and from the working language of the Joint Committee at meetings shall be borne by the party requesting such interpretation.

*Rule 13***Specialised committees**

1. Without prejudice to paragraphs 2 to 3 of this Rule, Rules 1 to 12 shall apply *mutatis mutandis* to the specialised committees unless decided otherwise by the Joint Committee.
2. The specialised committees shall be co-chaired by representatives designated by the European Commission and the Government of the United Kingdom. The European Union and the United Kingdom shall notify each other of the designated representatives.
3. All information and reports to be provided by a specialised committee pursuant to Article 165(4) of the Agreement shall be submitted to the Joint Committee without undue delay.

*Rule 14***Annual report**

For each calendar year, the annual report on the functioning of the Agreement provided for in Article 164(6) of the Agreement shall be drawn up by the Secretariat by 1 May of the following year. It shall be adopted and signed by the co-chairs.

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## ANNEX IX

## RULES OF PROCEDURE

## PART A

## RULES OF PROCEDURE FOR DISPUTE SETTLEMENT

- I. Definitions
  1. For the purposes of these Rules of Procedure, the following definitions shall apply:
    - (a) 'Party' means the Union or the United Kingdom;
    - (b) 'complainant' means any Party that requests the establishment of an arbitration panel under Article 170 of the Agreement;
    - (c) 'respondent' means the Party that is alleged to be in violation of a provision of this Agreement;
    - (d) 'representative of a Party' means a servant of, or any person appointed by a Party who represents that Party for the purposes of a dispute under this Agreement;
    - (e) 'adviser' means a person designated by a Party to advise or assist that Party in connection with proceedings before an arbitration panel;
    - (f) 'assistant' means a person who, under the terms of his or her appointment, conducts research for or provides assistance to a member of an arbitration panel under the direction and control of that member.
  - II. Notifications
    2. The following rules shall apply to notifications between the Parties and the arbitration panel:
      - (a) the arbitration panel shall send all requests, notices, written submissions and other documents to both Parties at the same time;
      - (b) where a Party addresses a request, notice, written submission or other document to the arbitration panel, it shall send a copy thereof to the other Party at the same time; and
      - (c) where a Party addresses a request, notice, written submission or other document in relation to the dispute to the other Party, it shall send a copy thereof to the arbitration panel at the same time.
    3. Any notification referred to in point 2 shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to have been delivered on the date of its sending. All notifications shall be addressed to the Legal Service of the European Commission and to the Legal Adviser of the Foreign and Commonwealth Office of the United Kingdom, respectively.
    4. The International Bureau of the Permanent Court of Arbitration shall, upon the written request of the Parties or the arbitration panel, act as a channel of communications between the Parties and the arbitration panel.
    5. Minor errors of a clerical nature in any request, notice, written submission or other document related to the proceedings before the arbitration panel may be corrected by delivery of a new document clearly indicating the changes.
    6. If the last day for delivery of a document falls on a weekend or legal holiday applicable to the European Commission or to the Foreign and Commonwealth Office of the United Kingdom, as the case may be, the document may be delivered on the next working day. No later than 30 September of each year, the Union and the United Kingdom shall inform each other as well as, in the case referred to in point 4, the International Bureau of the Permanent Court of Arbitration, of the legal holidays applicable to the European Commission and to the Foreign and Commonwealth Office of the United Kingdom, respectively.
  - III. Appointment and replacement of members of an arbitration panel
    7. If, pursuant to Article 171(5) of the Agreement, one or more members of an arbitration panel are to be selected by lot, the International Bureau of the Permanent Court of Arbitration shall promptly inform the Parties of the date, time and venue of the selection. The Parties may choose to be present during the selection. However, the absence of one or both of the Parties shall not preclude the selection from being carried out.

8. The International Bureau of the Permanent Court of Arbitration shall notify, in writing, each person who has been selected to serve as a member of an arbitration panel of his or her appointment. Each person selected shall, within 5 days from that notification, confirm his or her availability to the International Bureau of the Permanent Court of Arbitration and to both Parties.
9. Where a Party considers that a member of the arbitration panel does not comply with the Code of Conduct set out in Part B and for that reason needs to be replaced, that Party shall notify the other Party within 15 days from the time at which it obtained sufficient evidence of that member's alleged non-compliance.
10. The Parties shall consult each other within 15 days from the notification referred to in point 9. They shall inform the member of the arbitration panel of the alleged non-compliance and may request that member to take steps to remedy the situation. They may also jointly decide to remove that member and to select a new member in accordance with Article 171 of the Agreement.

If the Parties fail to agree on whether to replace a member of the arbitration panel other than its chairperson, either Party may request that this matter be referred to the chairperson of that panel, whose decision shall be final.

If the chairperson of the arbitration panel finds that the member of the arbitration panel does not comply with the Code of Conduct, a new member of the arbitration panel shall be selected in accordance with Article 171 of the Agreement.

11. If the Parties fail to agree on whether to replace the chairperson, either Party may request that this matter be referred to one of the remaining persons who have been jointly proposed by the Union and the United Kingdom to act as chairperson in accordance with the third sentence of Article 171(1) of the Agreement (the 'selected person'). The name of the selected person shall be drawn by lot by the Secretary-General of the Permanent Court of Arbitration.

If the selected person finds that the chairperson does not comply with the Code of Conduct, a new chairperson shall be selected in accordance with Article 171 of the Agreement from among the persons who have been jointly proposed by the Union and the United Kingdom to act as chairperson, with the exception of the selected person.

#### IV. Financial issues

12. The Parties shall share equally the expenses arising from the establishment and operation of an arbitration panel, including the remuneration and expenses to be paid to the members of that arbitration panel.
13. The Parties shall agree with the arbitration panel, within 7 days of its establishment, on:
  - (a) the remuneration and expenses to be paid to the members of the arbitration panel, which shall be reasonable and in accordance with WTO standards;
  - (b) the remuneration to be paid to assistants; for each member of the arbitration panel, the total amount of remuneration to be paid to assistants shall be reasonable and in any event shall not exceed one third of the remuneration of that member.

Such agreement may be reached by any means of communication.

#### V. Timetable and written submissions

14. The arbitration panel shall, after consulting the Parties, establish an indicative timetable of the proceedings within 7 days of its establishment.
15. The complainant shall address its written submission to the arbitration panel no later than 20 days after the date of establishment of the indicative timetable. The respondent shall address its written submission to the arbitration panel no later than 20 days after the date on which it has received a copy of the written submission of the complainant.

#### VI. Operation of the arbitration panel

16. The chairperson of the arbitration panel shall preside over all its meetings. The arbitration panel may delegate to the chairperson the authority to make administrative and procedural decisions.

17. Unless otherwise provided in this Agreement or in these Rules of Procedure, the arbitration panel may conduct its proceedings and deliberations by any means of communication.
18. Only members of the arbitration panel may take part in the deliberations of the arbitration panel, but the arbitration panel may permit the members' assistants to be present at its deliberations.
19. The drafting of any ruling or decision shall remain the exclusive responsibility of the members of the arbitration panel, and shall not be delegated to any other person.
20. The International Bureau of the Permanent Court of Arbitration shall provide secretariat services and other logistic support to the arbitration panel.
21. Where a procedural question arises that is not covered by this Agreement or by these Rules of Procedure, the arbitration panel may, after consulting the Parties, decide on the procedure to be followed, provided that the latter is compatible with this Agreement and with these Rules of Procedure.
22. If the arbitration panel considers that there is a need to change any of the time periods for the proceedings referred to in these Rules of Procedure or to make any other procedural or administrative adjustment, it shall inform the Parties in writing, after consulting the Parties, of the reasons for the change or adjustment and the time period or adjustment needed.

## VII. Hearings

23. Based upon the indicative timetable established pursuant to point 14, after consulting the Parties and the other members of the arbitration panel, the chairperson shall notify the Parties of the date, time and venue of the hearing. That information shall be made publicly available, unless the hearing is closed to the public.

The arbitration panel may decide, in agreement with the Parties, not to hold a hearing.

24. Unless the Parties agree otherwise, the hearing shall be held in The Hague, in the premises of the Permanent Court of Arbitration.
25. The arbitration panel may convene additional hearings if the Parties so agree.
26. All members of the arbitration panel shall be present during the entirety of the hearing.
27. Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether the hearing is open to the public or not:
  - (a) representatives of a Party;
  - (b) advisers;
  - (c) assistants;
  - (d) interpreters, translators and court reporters of the arbitration panel; and
  - (e) experts, as decided by the arbitration panel.
28. No later than 5 days before the date of a hearing, each Party shall address to the arbitration panel and to the other Party a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Party and the names of other representatives and advisers who will be attending the hearing.
29. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complainant and the respondent are afforded equal time in both argument and reply:
  - (a) argument:
    - (i) argument of the complainant;
    - (ii) argument of the respondent;
  - (b) reply:
    - (i) reply of the complainant;
    - (ii) counter-reply of the respondent.

30. The arbitration panel may direct questions to either Party at any time during the hearing.
31. The arbitration panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties as soon as possible after the hearing. The Parties may comment on the transcript and the arbitration panel may consider those comments.
32. Each Party may address a supplementary written submission to the arbitration panel concerning any matter that arose during the hearing within 10 days after the date of the hearing.

#### VIII. Questions in writing

33. The arbitration panel may at any time during the proceedings submit questions in writing to one or both Parties.
34. Each Party shall have an opportunity to provide comments in writing on the other Party's responses to questions submitted by the arbitration panel within 5 days after the date on which it has received a copy of those responses.

#### IX. Confidentiality

35. Any information submitted by a Party to the arbitration panel which that Party has designated as confidential shall be treated as confidential by the other Party and by the panel. When a Party submits to the arbitration panel a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information and which shall be disclosed to the public.
36. Nothing in these Rules of Procedure shall preclude a Party from disclosing its own written submissions, responses to questions submitted by the arbitration panel or transcript of oral argument to the public, provided that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.
37. Hearings before the arbitration panel shall be open to the public except where the submission and arguments of a Party contain confidential information or where the Parties otherwise agree that the hearing shall be closed to the public. In such case the Parties shall maintain the confidentiality of the hearings of the arbitration panel.

#### X. Ex parte contacts

38. The arbitration panel shall not meet or otherwise orally communicate with a Party in the absence of the other Party.

#### XI. Urgent cases

39. In cases of urgency referred to in Article 173(2) of the Agreement, the arbitration panel, after consulting the Parties, shall adjust, as appropriate, the time periods referred to in these Rules of Procedure. The arbitration panel shall notify the Parties of those adjustments.

#### XII. Translation and interpretation

40. The language of proceedings before the arbitration panel shall be English. Decisions of the arbitration panel shall be issued in English.
41. Each Party shall bear its own costs of the translation of any documents submitted to the arbitration panel which are not originally drafted in English, as well as any costs relating to interpretation during the hearing related to its representatives or advisers.

### PART B

#### CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS

##### Definitions

1. For the purposes of this Code of Conduct, the definition of 'assistant' set out in the Rules of Procedure shall apply. In addition, 'candidate' means a person whose name is on the list referred to in Article 171(1) of the Agreement and who is under consideration for selection as a member of an arbitration panel under that Article.

#### Responsibilities to the process

2. Every candidate and member of an arbitration panel shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement procedure is preserved. Former candidates or members of an arbitration panel shall comply with the obligations set out in points 8, 9 and 10.

#### Disclosure obligations

3. Prior to the confirmation of their selection as a member of an arbitration panel under this Agreement, candidates shall disclose to the Parties in writing any interest, relationship or matter of which they are aware that is likely to affect their independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceedings before the arbitration panel.
4. Candidates and members of an arbitration panel shall communicate matters concerning actual or potential violations of this Code of Conduct only to the Joint Committee for consideration by the Union and the United Kingdom.
5. Members of an arbitration panel shall at any stage of the proceedings before the arbitration panel disclose to the Parties in writing any interests, relationships or matters of the nature referred to in point 3 of which they are or become aware.

#### Due diligence of members of an arbitration panel

6. Upon selection, members of an arbitration panel shall perform their duties thoroughly and expeditiously throughout the course of the proceedings before the arbitration panel, and with fairness and diligence. In particular, they shall:
  - (a) consider only those issues that were raised in the proceedings before the arbitration panel and are necessary for a ruling, and shall not delegate this duty to any other person;
  - (b) take all appropriate steps to ensure that their assistants are aware of, and comply with, points 2, 3, 4, 5, 9 and 10.

#### Independence and impartiality of members of an arbitration panel

7. Members of an arbitration panel:
  - (a) shall be independent and impartial, and avoid creating an appearance of impropriety or bias, and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to the Union or the United Kingdom, or fear of criticism;
  - (b) shall not directly or indirectly incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties;
  - (c) shall not use their position as a member of an arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence them;
  - (d) shall not allow financial, business, professional, family or social relationships or responsibilities to influence their conduct or judgement;
  - (e) shall avoid entering into any relationship or acquiring any financial interest that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or bias;
  - (f) shall not discuss any aspect of the subject matter or the conduct of the proceedings before the arbitration panel with one or both of the Parties in the absence of the other members of the arbitration panel.

#### Obligations of former members of an arbitration panel

8. All former members of an arbitration panel shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from any decision or ruling of the arbitration panel.

## Confidentiality

9. No member or former member of an arbitration panel shall at any time
    - (a) disclose or use any non-public information concerning any proceedings before the arbitration panel or that was acquired during such proceedings, except for the purposes of those proceedings and in any case shall not disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others;
    - (b) disclose the deliberations of the arbitration panel, or the views of any member of the panel.
  10. No member of an arbitration panel shall disclose a ruling of the arbitration panel or parts thereof prior to its publication in accordance with this Agreement.
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