

28 February 2018

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**Subject:** European Commission Draft Withdrawal Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

**Origin:** European Commission, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU.

**Objective:** To be presented by Michel Barnier, Chief Negotiator to the CRP Art.50 and to the EP Brexit Steering Group on 28 February 2018. To be published on the TF50 website on 28 February 2018.

**Remarks:** This Draft Withdrawal Agreement sets out the arrangements for the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and from the European Atomic Energy Community.

It will now be discussed over the coming weeks with the Council (Article 50) and the Brexit Steering Group of the European Parliament before transmission to the UK authorities for negotiation.

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

**PREAMBLE**

THE EUROPEAN UNION AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

[...]

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 Union law;
  - (iii) the acts adopted by the institutions, bodies, offices or agencies of the Union;
  - (iv) the international agreements to which the Union or Euratom is party and the international agreements concluded by the Member States acting on behalf of the Union or Euratom;
  - (v) the agreements between Member States entered into in their capacity as Member States of the Union or of Euratom; and
  - (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 British citizen, 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 121.

*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) the Channel Islands, the Isle of Man, Gibraltar and the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus to the extent that Union law was applicable to them before the date of entry into force of this Agreement;
  - (c) 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.

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

1. Where this Agreement provides for the application of Union law in the United Kingdom, it 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.

In particular, Union citizens and United Kingdom nationals shall be able to rely directly on the provisions contained or referred to in Part Two. Any provisions inconsistent or incompatible with that Part shall be disapplied.

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

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

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

\* It is recalled that the territorial scope of the Withdrawal Agreement, including as regards the transition period, should fully respect paragraphs 4 and 24 of the European Council guidelines of 29 April 2017, notably as regards Gibraltar.

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

3. The provisions of this Agreement referring to concepts or provisions of Union law shall be interpreted and applied in accordance with the same methods and general principles as those applicable within the Union.
4. The provisions of this Agreement 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 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*  
*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 as applicable on the last day of the transition period, including as amended or replaced.
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 acts or provisions thereof that, although repealed 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 6*  
*References to Member States*

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 read 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.

<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 L55, 28.2.2011, p. 13).

*Article 7**Access to network and information systems and data bases*

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 8  
Definitions*

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

- (a) "family members" means family members of Union citizens or 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>, irrespective of their nationality and who fall within the personal scope provided for in Article 9 of this Agreement;
- (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, the United Kingdom if they exercised there their right of residence 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, the Member State in which they exercised their right of residence in accordance with Union law before the end of the transition period and continue to reside there 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 where they pursued an economic activity as frontier workers before the end of the transition period and continue to do so thereafter;
- (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> and shall cover rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.

<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).

<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 (OJ L 338, 23/12/2003 p. 1).

*Article 9*  
*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), where 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 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;<sup>\*</sup>
  - (iii) they are 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, where they 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

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<sup>\*</sup> This reflects the Commission's view as set out in the Communication from the Commission to the European Council of 8 December 2017 (COM(2017)784 final), according to which the family reunification right provided for in the Joint Report shall also cover future partners or spouses of Union citizens and United Kingdom nationals, who are not yet partners or spouses at the "specified date".

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. 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, facilitate entry and residence for persons falling under points (a) and (b) of Article 3(2) of Directive 2004/38/EC who resided in the host State in accordance with Union law before the end of the transition period and continue to reside there thereafter.
3. 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) has a durable relationship, duly attested, 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.
4. In the cases referred to in paragraphs 2 and 3, the host State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to such persons.

*Article 10*  
*Continuity of residence*

Continuity of residence for the purposes of Articles 8 and 9 shall not be affected by absences as referred to in Article 14(2) and (3).

*Article 11*  
*Non-discrimination*

Within the scope of this Agreement 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 9 of this Agreement.

<sup>7</sup>

The notion of rights of custody is to be interpreted in accordance with point (9) of Article 2 of 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. Therefore, it covers rights of custody acquired by judgment, by operation of law or by an agreement having legal effect.

**TITLE II**  
**RIGHTS AND OBLIGATIONS**

**CHAPTER 1**  
**Rights related to residence, residence documents**

*Article 12*  
*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), Article 7(1)(a), (b) or (c), 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), Article 7(1)(d), Article 12(1) or (3), Article 13(1), Article 14, Article 16(1) or Article 17(3) and (4) of Directive 2004/38/EC.
3. Family members who are neither Union citizens nor United Kingdom nationals shall have the right to reside in the host State 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.
4. The host State may not impose any limitations and conditions other than those provided for in this Title on the persons referred to in paragraphs 1, 2 and 3 for obtaining, retaining or losing residence rights. There shall be no discretion in applying the limitations and conditions, other than in favour of the person concerned.

*Article 13*  
*Right of exit and of entry*

1. Union citizens, United Kingdom nationals, and their respective family members, shall have the right to leave the host State and the right to enter it with a valid passport or national identity card for Union citizens and United Kingdom nationals, and a valid passport for their respective family members who are not Union citizens or United Kingdom nationals as set out in Articles 4(1) and 5(1) of Directive 2004/38/EC. No exit or entry visa or equivalent formality shall be required for holders of a valid residence document issued in accordance with Article 17 or 24 of this Agreement.
2. Where the host State requires family members who join the Union citizen or the 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 14*  
*Right of permanent residence*

1. Union citizens, United Kingdom nationals, and their respective family members, who have resided legally in accordance with Union law for a continuous period of five years in the host State, or for the duration specified in Article 17 of Directive 2004/38/EC, shall have the right of permanent residence in the host State as set out in Articles 16, 17 and 18 of Directive 2004/38/EC. Periods of legal residence or work 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 five consecutive years.

*Article 15*  
*Accumulation of periods*

Union citizens, United Kingdom nationals, and their respective family members, who before the end of the transition period resided legally in the host State under the conditions of Article 7 of Directive 2004/38/EC for a period of less than five years, shall have the right to acquire the right of permanent residence set out in Article 14 of this Agreement once they have completed the necessary periods of residence. Periods of legal residence or work 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 16*  
*Status and changes*

1. The right of Union citizens, United Kingdom nationals, and their respective family members to rely directly on this Title shall not be affected when they change status, for example from student to worker, from worker to being economically inactive, or from being economically inactive to student.
2. The rights provided for in this Title for the family members, who are dependent on Union citizens or United Kingdom nationals before the end of the transition period, shall be maintained even after they cease to be dependent as a result of taking up employment or self-employment in the host State.

*Article 17*  
*Issuance of residence documents*

1. The host State may require Union citizens or United Kingdom nationals and their respective family members, residing in its territory in accordance with the conditions set out in this Title, to apply for a new residence document as a condition for the enjoyment of the rights under this Title, subject to the following conditions:
  - (a) the purpose of the application procedure shall be to verify whether the applicant falls within the personal scope provided for in Article 9 and 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 document;
  - (b) the deadline for submitting the residence document application shall not be less than two years from the end of the transition period or from the date of arrival in the host

State, whichever is later; a certificate of application for the residence document shall be issued immediately;

- (c) the deadline for submitting the residence document application referred to in point (b) shall be extended automatically by one year where the Union or the United Kingdom has notified the United Kingdom or the Union, respectively, 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 citizens or nationals concerned in good time;
- (d) where the deadline for submitting the residence document 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 allow those persons to submit an application within a reasonable further period of time, unless such an application is manifestly abusive;
- (e) the host State shall ensure that administrative procedures for applications for the residence document are smooth, transparent and simple and that any unnecessary administrative burdens are avoided;
- (f) application forms shall be short, simple, user friendly and adjusted to the context of this Agreement; applications made by families at the same time shall be considered together;
- (g) the residence document shall be issued free of charge or for a charge not exceeding that imposed on citizens or nationals for the issuing of similar documents;
- (h) persons who, before the end of the transition period, are holders of a valid permanent residence document issued under Article 19 or 20 of Directive 2004/38/EC or a valid domestic immigration document conferring a permanent right to reside in the host State, shall have the right to exchange that document within two years of the end of the transition period for a new residence document after a verification of their identity, a criminality and security check in accordance with point (p) of this paragraph and confirmation of ongoing residence; such a document shall be 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 a valid passport for their respective family members 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 validity. 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 and before the decision on the application is taken;
- (j) supporting documents other than identity documents, such as civil status documents, may be submitted in copy;
- (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 Article 7(1)(a) 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 Article 7(1)(b) 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 have comprehensive sickness insurance cover in the host State;
- (iii) where they reside in the host State in accordance with Article 7(1)(c) of Directive 2004/38/EC as students, proof of enrolment at an accredited establishment and of comprehensive sickness insurance cover and a declaration or equivalent, 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 this declaration 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 Articles 9(1)(e)(i) or 9(2) of this Agreement and who reside in the host State in accordance with Article 7(1)(d) or 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 Articles 8(5) or 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 with whom they reside in the host State;
- (iii) for direct descendants who are under the age of 21 or 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 Article 2(2)(c) or (d) of Directive 2004/38/EC are fulfilled;
- (iv) for the persons referred to in Article 9(2) 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 Articles 9(1)(e)(ii) or 9(3) of this Agreement, 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 of a registered partnership before the end of the transition period;
- (iv) for direct descendants who are under the age of 21 or 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 Article 2(2)(c) or (d) of Directive 2004/38/EC relating to age or dependence;
- (v) for the persons referred to in Article 9(3) 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 prove their eligibility and avoid any errors or omissions in the application; they shall give the applicants the opportunity to furnish supplementary evidence and to correct any deficiencies, errors or omission;
- (p) criminality and security checks may be carried out systematically on applicants with the exclusive aim of verifying whether restrictions set out in Article 18 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, should it consider this essential, apply the procedure set out in Article 27(3) of Directive 2004/38/EC on 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 document. 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. They shall ensure that the decision is proportionate.

2. During the two-year period referred to in point (b) of paragraph 1 of this Article and its possible one-year extension under point (c) of paragraph 1 of this Article, all rights provided for in this Part shall be deemed to apply to Union citizens or United Kingdom nationals and their respective family members, residing in the host State in accordance with the conditions set out in this Title.
3. Pending a final decision by the competent authorities on any application referred to in paragraph 1, as well as 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 19 on safeguards and right of appeal.

4. Where a host State has chosen not to require Union citizens or United Kingdom nationals, and their respective family members, to apply for the new residence document referred to in paragraph 1 as a condition for legal residence, those Union citizens, United Kingdom nationals and their respective family members eligible for residence rights shall have the right to receive a residence document that includes a statement that it has been issued in accordance with this Agreement.

#### *Article 18*

##### *Restrictions of the right of residence*

1. Conduct of Union citizens or United Kingdom nationals or their respective family members, that occurred before the end of the transition period shall be considered in accordance with Chapter VI of Directive 2004/38/EC.
2. Conduct of Union citizens or United Kingdom nationals, or their respective family members, that occurred after the end of the transition period may constitute grounds for restricting the right of residence by the host State in accordance with national legislation.
3. The host State may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Title in the case of 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 19 of this Agreement.
4. The host State 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 case of judicial redress sought against any rejection of such an application.

#### *Article 19*

##### *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 of the host State that restricts residence rights of the persons referred to in Article 9 of this Agreement.

#### *Article 20*

##### *Related rights*

In accordance with Article 23 of Directive 2004/38/EC, irrespective of nationality, the family members of a Union citizen or a 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 21*  
*Equal treatment*

1. In accordance with Article 24 of Directive 2004/38/EC, subject to the specific provisions provided for in Titles I, II 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 Agreement. The benefit of this right shall be extended to family members of Union citizens or of United Kingdom nationals and 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 residence in accordance with Articles 6 or 14(4)(b) of Directive 2004/38/EC, nor shall it be obliged, prior to acquisition of the right of permanent residence in accordance with Article 14 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 and members of their families.

**CHAPTER 2**  
**Rights of workers and self-employed persons**

*Article 22*  
*Rights of workers*

1. Workers in the host State and frontier workers in the State or States of work shall enjoy the following rights:
  - (a) subject to the limitations set out in Article 45(3) and 45(4) TFEU:
    - (i) the right, in accordance with Article 45(2) TFEU, not to be discriminated against on grounds of nationality as regards employment, remuneration and other conditions of work and employment;
    - (ii) the rights referred to in Article 45(3) TFEU;
  - (b) the rights set out in Regulation (EU) No 492/2011 of the European Parliament and of the Council<sup>8</sup>, including:
    - (i) 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;
    - (ii) the right to assistance afforded by the employment offices of the host State or the State of work as offered to own nationals;
    - (iii) 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;
    - (iv) the right to tax and social advantages;
    - (v) collective rights;

<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).

- (vi) the rights and benefits accorded to national workers in matters of housing;
- (vii) 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.

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 retain the rights they enjoyed as workers in the State or States of work, and the right to enter and exit that State in accordance with Article 13.

*Article 23*  
*Rights of self-employed persons*

1. Self-employed persons in the host State and self-employed frontier workers in the State or States of work shall have the following rights:

- (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 Article 22 of this Agreement.

2. Self-employed frontier workers shall have the same rights as employed frontier workers, without prejudice to Article 32 concerning the scope of rights.

*Article 24*  
*Issuance of a document identifying frontier workers' rights*

Union citizens and United Kingdom nationals who have rights as frontier workers under this Title shall have the right, in the State of work, to receive a document certifying that they have such rights under this Agreement.

**CHAPTER 3**  
**Professional qualifications**

*Article 25*  
*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 Kingdom nationals by their host State or their State of work shall maintain its effects in the respective State, including the right to pursue the profession

<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).

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 Member State;
- (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 in order to take up or pursue 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 in accordance with Title III of Directive 2005/36/EC referred to in point (a) of paragraph 1 of this Article shall include:

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

#### *Article 26*

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

Title III of Directive 2005/36/EC, Article 10(1) and (3) 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 their 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.

<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. 5).

*Article 27**Administrative cooperation on recognition of professional qualifications*

With regard to the pending applications referred to in Article 26, the United Kingdom and the Member States shall cooperate in order to facilitate the application of Article 26. Cooperation may include the exchange of information, including 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 26.

**Title III**  
**Coordination of social security systems**

*Article 28*  
*Persons covered*

1. This Title shall apply to the following persons:

- (a) Union citizens who are or have been subject to the legislation of the United Kingdom, as well as their family members and their survivors;
- (b) United Kingdom nationals who are or have been subject to the legislation of a Member State, as well as their family members and their survivors;
- (c) Union citizens who resided in the United Kingdom before the end of the transition period and continue to do so thereafter, and are subject to the legislation of a Member State, as well as their family members and their survivors;
- (d) United Kingdom nationals who resided in a Member State before the end of the transition period and continue to do so thereafter, and are subject to the legislation of the United Kingdom, as well as their family members and their survivors;
- (e) Union citizens and United Kingdom nationals who pursued an activity as employed or self-employed person both in the United Kingdom and in one or more Member States before the end of the transition period and continue to do so thereafter, as well as their family members and their survivors;
- (f) stateless persons and refugees, residing in a Member State or in the United Kingdom, who are or have been subject to the legislation of the United Kingdom or a Member State, respectively, as well as their family members and their survivors;
- (g) nationals of third countries who are not Union citizens or United Kingdom nationals, as well as members of their families and their survivors, provided that they fulfil the conditions of Regulation (EU) No 1231/2010 of the European Parliament and of the Council<sup>13</sup> or Council Regulation (EC) No 859/2003<sup>14</sup>.

2. By way of derogation from point (a) of Article 8 of this Agreement, for the purposes of this Title, "family member" means member of the family as defined in point (i) of Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council<sup>15</sup>.

3. For the purposes of this Title, "legislation" means legislation as defined in point (l) of Article 1 of Regulation (EC) No 883/2004.

4. Union citizens or United Kingdom nationals, as well as nationals of third countries referred to in point (g) of paragraph 1, having worked or resided in a Member State or in the United Kingdom before the end of the transition period shall, for the purposes of aggregation of periods of social

<sup>13</sup> Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ L 344, 29.12.2010, p. 7).

<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).

<sup>15</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).

security insurance, including rights flowing from such periods, in accordance with Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council<sup>16</sup>, be covered by this Title.

#### *Article 29*

##### *Social security coordination rules*

1. For the purposes of ensuring the rights referred to in Articles 21, 45 and 49 TFEU, the rights and principles set out in Article 48 TFEU, Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009, as well as 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 the Annex γ+5 to] this Agreement, shall apply to the matters covered by those Regulations as set out in Article 3 of Regulation (EC) No 883/2004, notably the branches of social security referred to therein, including in respect of:
  - (a) the general principles of social security coordination, and in particular equal treatment, assimilation of facts and benefits, aggregation of periods, export of benefits and the prevention of overlapping benefits set out in Articles 4 to 10 of Regulation (EC) No 883/2004;
  - (b) the determination of the applicable legislation based on Title II of Regulation (EC) No 883/2004;
  - (c) administrative cooperation set out in Title V of Regulation (EC) No 883/2004.
2. Contributions both before and after the end of the transition period shall be taken into account for the purposes of aggregation of periods of social security insurance, including rights flowing from such periods, in accordance with Regulation (EC) No 883/2004 and shall be covered by this Title.
3. Where a person referred to in Article 28 of this Agreement has undertaken a course of planned health care treatment before the end of the transition period in a Member State or in the United Kingdom, while that State was not the competent State as determined in accordance with Title II of Regulation (EC) No 883/2004, that person shall have the right to continue the treatment until its end.
4. If, following the grant of a benefit based on the periods of insurance, employment, self-employment or residence in accordance with Article 28(3) of this Agreement, the United Kingdom becomes competent for the healthcare cover of a Union citizen, or a Union Member State becomes competent for the health care cover of a United Kingdom national, that Union citizen or United Kingdom national shall be entitled to healthcare cover as set out in Articles 24 to 30 of Regulation (EC) No 883/2004 and the corresponding reimbursement procedures shall apply between the United Kingdom and the Member State.

<sup>16</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).

*Article 30*  
*Administrative cooperation*

1. By way of derogation from Articles 6 and 123(1), and 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 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 Technical Commission for data processing and of the Audit Board, both attached to the Administrative Commission where such items are discussed.
2. By way of derogation from Article 7, the United Kingdom shall take part in the Electronic Exchange of Social Security Information (EESSI) and bear the related costs.

*Article 31*  
*Development of law and adaptations of Union acts*

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

The Joint Committee shall revise [Part II of the Annex] 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 an 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. 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 the Annex] to this Agreement. The United Kingdom shall, as soon as possible after adoption, inform the Union of any changes in domestic provisions of relevance to [Part III of the Annex] to this Agreement within the Joint Committee.

Provided that Regulations (EC) No 883/2004 and (EC) No 987/2009 are respected, the Joint Committee shall revise [Part III of the Annex] on a proposal from the Union or the United Kingdom.

3. The Joint Committee shall amend [Part I of the Annex] to reflect any new Decision or Recommendation adopted by the Administrative Commission. To that end, the Union shall, as soon as possible after adoption, inform the United Kingdom thereof within the Joint Committee.

The Decisions and Recommendations of the Administrative Commission shall, for the purposes of this Agreement, be understood as comprising the adaptations set out in [Part I of the Annex]. Such adaptations shall, provided that Regulations (EC) No 883/2004 and (EC) No 987/2009 as well as the relevant Decisions or Recommendations adopted by the Administrative Commission are respected, be made by the Joint Committee on a proposal of the Union or the United Kingdom.

**TITLE IV**  
**OTHER PROVISIONS**

*Article 32*  
*Scope of rights*

In respect of United Kingdom nationals and their family members, the rights provided for by this Part shall not include further free movement to the territory of another Member State, the right of establishment in the territory of another Member State, or the right to provide services on the territory of another Member State or to persons established in other Member States.

*Article 33*  
*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 34*  
*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 11 and Article 21(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 35*  
*Life-long protection*

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

**PART THREE  
SEPARATION PROVISIONS**

**TITLE I  
GOODS PLACED ON THE MARKET**

*Article 36  
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 Union market or the United Kingdom's market;
- (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 an agreement, written or verbal, 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 competent 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 composition, terminology, symbols, testing and testing methods, packaging, marking or labelling and conformity assessment procedures; the term also covers 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.

*Article 37*

*Continued circulation of goods placed on the market*

1. Any good that was lawfully placed on the Union market or the United Kingdom's market 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:
  - (a) live animals and germinal products;
  - (b) other animal products than those referred to in point (a), including food and feed of animal origin and animal by-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 y] 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 38*

*Proof of placing on the market*

Where an economic operator relies on Article 37(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 Union market or the United Kingdom's market before the end of the transition period.

*Article 39*

*Market surveillance*

1. The market surveillance authorities of Member States and of the United Kingdom shall exchange promptly any relevant information collected with regard to the goods referred to in Article 37(1) in the context of their respective market surveillance activities. They shall also communicate to each other and to the European Commission any information relating to goods presenting a serious risk as well as any measures taken in relation to non-compliant goods.

2. Member States and the United Kingdom shall transmit without delay any request from the market surveillance authorities of the United Kingdom or of Member States, respectively, to a conformity assessment body established in their territory that 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 40*

##### *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>17</sup>, Regulation (EC) No 1107/2009<sup>18</sup>, Directive 2001/83/EC<sup>19</sup> and Directive 2001/82/EC<sup>20</sup> of the European Parliament and of the Council.

#### *Article 41*

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

The United Kingdom shall, upon a reasoned request from a Member State or the European Medicines Agency, make available without delay the marketing authorisation application dossier of a medicinal product authorised by the competent authorities of the United Kingdom before the end of the transition period, where this 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.

#### *Article 42*

##### *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, upon request by the certificate holder, 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 to a notified body established in a Member State indicated by the certificate holder without delay.
2. Member States shall ensure that, upon request by the certificate holder, 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 to a conformity assessment body established in the United Kingdom indicated by the certificate holder without delay.

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<sup>17</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>18</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>19</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>20</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).

**TITLE II**  
**ONGOING CUSTOMS PROCEDURES**

*Article 43*  
*Union status of goods*

1. Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>21</sup> shall apply in respect of Union goods referred to in Article 5(23) of that Regulation moving 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.
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 be proven by the person concerned by any of the means referred to in Article 199 of Commission Implementing Regulation (EU) 2015/2447<sup>22</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 at an airport in the customs territory of the Union for consignment to the customs territory of the United Kingdom and 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>23</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;

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<sup>21</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>22</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>23</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).

- (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.

*Article 44*

*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 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 45*

*Ending of temporary storage or customs procedures*

1. Regulation (EU) No 952/2013 shall apply in respect of non-Union goods that were placed under temporary storage referred to in Article 5(17) of that Regulation or any of the special customs procedures referred to in Article 5(16) of that Regulation in the customs territory of the United Kingdom before the end of the transition period until the situation or the customs procedure is ended or discharged in accordance with Union law thereafter.
2. Regulation (EU) No 952/2013 shall apply in respect of any customs debt arising after the end of the transition period from the end or discharge referred to in paragraph 1.
3. Article 52 of Implementing Regulation (EU) 2015/2447 shall apply in respect of the cancellation of requests and returns of unused allocated quantities of requests to benefit from a customs quota transmitted to the European Commission 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.

*Article 46*

*Access to relevant network and information systems and data bases*

By way of derogation from Article 7, the United Kingdom shall have access, to the extent strictly necessary to comply with its obligations set out in this Title, to the network and information systems and the databases listed in [Annex Y+4].

**TITLE III**  
**ONGOING VALUE ADDED TAX AND EXCISE DUTY MATTERS**

*Article 47*  
*Value added tax (VAT)*

Council Directive 2006/112/EC<sup>24</sup> shall apply in respect of goods dispatched or transported from the territory of the United Kingdom to the territory of a Member State, or vice versa, provided that the dispatch or transport started before the end of the transition period and ended thereafter.

*Article 48*  
*Excise goods*

Council Directive 2008/118/EC<sup>25</sup> shall apply in respect of movements of excise goods under a duty suspension arrangement and 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 49*  
*Access to relevant network and information systems and data bases*

By way of derogation from Article 7, the United Kingdom shall have access, to the extent strictly necessary to comply with its obligations set out in this Title, to the network and information systems and the databases listed in [Annex Y+4].

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<sup>24</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>25</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, 14.01.2009, p. 12).

**TITLE IV**  
**INTELLECTUAL PROPERTY**

*Article 50*

*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, as provided for by 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>26</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 in accordance with Council Regulation (EC) No 6/2002<sup>27</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>28</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>29</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>30</sup>, a geographical indication within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council<sup>31</sup> or within the meaning of Regulation (EU) No 251/2014 of the European Parliament and of the Council<sup>32</sup>, is protected in the Union on the last day of the transition period, those entitled to use the geographical indication, the designation of origin, the traditional speciality guaranteed or the traditional term concerned shall, as from the end of the transition period, be entitled to use a right in the United Kingdom granted under the law of the United Kingdom which provides for at least the same level of protection, with respect to the geographical indication, the

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<sup>26</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 OJ L 154, 16.6.2017, p. 1).

<sup>27</sup> Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).

<sup>28</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>29</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>30</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>31</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>32</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).

designation of origin, the traditional speciality guaranteed or the traditional term concerned, as the protection provided for by the following provisions of Union law:

- (a) Article 4(1)(i) of Directive (EU) 2015/2436 of the European Parliament and of the Council<sup>33</sup>; and
  - (b) as appropriate in view of the right concerned, Articles 13, 14(1), 24, 38, 44 and 45(1)(b) of Regulation (EU) No 1151/2012; Articles 102(1), 103, 113 and 157(1)(c)(x) of Regulation (EU) No 1308/2013; Articles 16, 23(1) and, in so far as related to compliance with Articles 16 and 23(1), Article 24(1) of Regulation (EC) No 110/2008; or Articles 19(1) and 20 of Regulation (EU) No 251/2014.
3. Notwithstanding paragraphs 1 and 2, if an intellectual property right referred to in those paragraphs is declared invalid or revoked, or in the case of a Community plant variety right is declared null and void or 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 cancelled.
  4. A trade mark or registered design right which arises in the United Kingdom in accordance with points (a) and (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 having a reputation in the Union shall be allowed 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 2015/2436 in respect of the corresponding trade mark on the basis of the reputation acquired in the Union.
  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 the date of priority shall be that of the corresponding registered Community design or Community plant variety right.

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<sup>33</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).

*Article 51*  
*Registration procedure*

1. The registration or grant of the intellectual property rights pursuant to Article 50(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.
2. For the purpose of the registration process, holders of the intellectual property rights referred to in Article 50(1) and those entitled to use the rights referred to in Article 50(2) shall not be required to introduce an application or to undertake any particular administrative procedure. They shall not be required to have a correspondence address in the United Kingdom, without prejudice to such address being required at the moment of the first renewal of the intellectual property right concerned, where applicable.
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 or grant in the United Kingdom of the intellectual property rights referred to in Article 50(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 52*  
*Continued protection in the United Kingdom of international registrations designating the Union*

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

*Article 53*  
*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, as provided for by the law of the United Kingdom and affording 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 referred to in Article 11(1) of that Regulation of the corresponding unregistered Community design.

*Article 54*  
*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>34</sup> which arose before the end of the transition period shall in relation to that database maintain an enforceable intellectual property right in respect of the United Kingdom as provided for by the law of the United Kingdom and affording 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 referred to in 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) persons with a habitual residence in the United Kingdom;
  - (c) undertakings formed in accordance with the law of the United Kingdom and having their registered office, central administration or principal place of business within the United Kingdom; where such an undertaking has only its registered office in the United Kingdom, its operations must be genuinely linked on an ongoing basis with the economy of the United Kingdom.

*Article 55*  
*Right of priority with respect to pending applications for European Union trade marks and Community plant variety rights*

1. Where a person filed an application for a European Union trade mark 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 purpose of filing a trade mark application in the United Kingdom 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, an ad hoc right of priority in the United Kingdom during a period of six months from the end of the transition period. That right of priority shall have the effect that the date of priority of the application for the European Union trade mark counts as the date of filing of the trade mark application in the United Kingdom for the purpose of establishing which rights take precedence.
2. Where a person 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 six months from the end of the transition period. The right of priority shall have the effect that the date of priority of the application for the Community plant variety right counts as 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.

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<sup>34</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 56**Pending applications for supplementary protection certificates in the United Kingdom*

1. Regulation (EC) No 1610/96 of the European Parliament and of the Council<sup>35</sup> and Regulation (EC) No 469/2009 of the European Parliament and of the Council<sup>36</sup> shall apply in respect of applications for supplementary protection certificates for plant protection products, for medicinal products, or applications for the extension of the duration of such certificates, submitted to an authority in the United Kingdom before the end of the transition period 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 57**Exhaustion of rights*

Rights conferred by an intellectual property right 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.

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<sup>35</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>36</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).

**TITLE V**  
**ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS**

*Article 58*

*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) Council Framework Decision 2002/584/JHA<sup>37</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 remains in detention or is provisionally released;
  - (b) Council Framework Decision 2003/577/JHA<sup>38</sup> shall apply in respect of freezing orders received before the end of the transition period by the central authority, by 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 which transmits it *ex officio* to the competent judicial authority for execution;
  - (c) Council Framework Decision 2005/214/JHA<sup>39</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 which transmits it *ex officio* to the competent authority for execution;
  - (d) Council Framework Decision 2006/783/JHA<sup>40</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 which transmits it *ex officio* to the competent authority for execution;
  - (e) Council Framework Decision 2008/909/JHA<sup>41</sup> shall apply 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 which transmits it *ex officio* to the competent authority for execution;

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<sup>37</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>38</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>39</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>40</sup> Council Framework Decision 2006/783/JHA of 7 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 24.11.2006, p. 54).

<sup>41</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).

- (f) Council Framework Decision 2008/675/JHA<sup>42</sup> shall apply in respect of new criminal proceedings within the meaning of Article 3 of that Framework Decision initiated before the end of the transition period;
  - (g) Council Framework Decision 2009/315/JHA<sup>43</sup> shall apply in respect of requests for information on conviction received before the end of the transition period by the central authority;
  - (h) Council Framework Decision 2009/829/JHA<sup>44</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 which forwards it *ex officio* to the competent authority for execution;
  - (i) Directive 2011/99/EU of the European Parliament and of the Council<sup>45</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 which forwards it *ex officio* to the competent authority for execution;
  - (j) Directive 2014/41/EU of the European Parliament and of the Council<sup>46</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 set up before the end of the transition period 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<sup>47</sup> or in accordance with Council Framework Decision 2002/465/JHA<sup>48</sup> in which it was participating before the end of the transition period.

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<sup>42</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>43</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>44</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>45</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>46</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>47</sup> OJ C 197, 12.7.2000, p. 3.

<sup>48</sup> Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).

*Article 59*

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

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>49</sup> shall apply in respect of:
- (i) requests in accordance with Article 39 of the Schengen Implementing Convention 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 with no power to deal with a request which forward it to the competent authorities;
  - (ii) requests for assistance of cross-border surveillance in accordance with Article 40(1) of the Schengen Implementing Convention received before the end of the transition period by an authority designated by a Contracting Party;
  - (iii) cross-border surveillance in accordance with Article 40(2) of the Schengen Implementing Convention carried out without prior authorisation that 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>50</sup> shall apply in respect of:
- (i) requests for information received before the end of the transition period by the requested authority;
  - (ii) requests for surveillance received before the end of the transition period by the requested authority;
  - (iii) requests for enquiries received before the end of the transition period by the requested authority;
  - (iv) requests for notification received before the end of the transition period by the requested authority;
  - (v) requests for authorisation of the cross-border surveillance or for entrusting observation to the officers of the Member State in whose territory observation is carried out received before the end of the transition period by an authority designated by requested Member State empowered to grant the requested authorisation or to pass on the request;
  - (vi) cross-border surveillance carried out without prior authorisation that started before the end of the transition period;
  - (vii) requests to carry out controlled delivery received before the end of the transition period by the requested authority;

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<sup>49</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).

<sup>50</sup> OJ C 24, 23.1.1998, p. 2.

- (viii) requests to authorise covert investigations received before the end of the transition period by the requested authority;
- (ix) joint special investigation teams set up pursuant to Article 24 of that Convention before the end of the transition period;
- (c) Council Decision 2000/642/JHA<sup>51</sup> shall apply in respect of requests received before the end of the transition period by the requested Financial Intelligence Unit;
- (d) Council Framework Decision 2006/960/JHA<sup>52</sup> shall apply in respect of requests received before the end of the transition period by the requested competent law enforcement authority;
- (e) Council Decision 2007/533/JHA<sup>53</sup> shall apply in respect of 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;
- (f) Council Decision 2007/845/JHA<sup>54</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>55</sup> shall apply in respect of requests received before the end of the transition period by the passenger information unit in accordance with Articles 9 and 10 of that Directive received.

#### *Article 60*

#### *Confirmation of receipt or arrest*

1. The competent issuing or requesting authority may request an acknowledgement of receipt of a judicial decision or a request referred to in points (b) to (e) and points (g) to (j) of Article 58(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 59 within seven 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 (a) of Article 58(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

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<sup>51</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>52</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>53</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).

<sup>54</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>55</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).

the competent executing judicial authority a confirmation of the arrest within seven days after the end of the transition period.

*Article 61*  
*Other applicable Union acts*

Directive 2010/64/EU of the European Parliament and of the Council<sup>56</sup> and Directive 2012/13/EU of the European Parliament and of the Council<sup>57</sup> shall apply in respect of proceedings referred to in point (a) of Article 58(1) of this Agreement.

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<sup>56</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>57</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 62*

*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>58</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>59</sup> shall apply in respect of events giving rise to damage which occurred before the end of the transition period.

*Article 63*

*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, the following acts or provisions shall apply in respect of legal proceedings instituted before the end of the transition period:
  - (a) the provisions regarding jurisdiction of Regulation (EU) No 1215/2012 of the European Parliament and of the Council<sup>60</sup>;
  - (b) the provisions regarding jurisdiction of Regulation (EU) 2017/1001<sup>61</sup>, of Regulation (EC) No 6/2002<sup>62</sup>, of Regulation (EC) No 2100/94<sup>63</sup>, of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>64</sup> and of Directive 96/71/EC of the European Parliament and of the Council<sup>65</sup>;

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<sup>58</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>59</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>60</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>61</sup> Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ L 154, 16.6.2017, p.1)

<sup>62</sup> Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).

<sup>63</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>64</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>65</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).

- (c) the provisions of Council Regulation (EC) No 2201/2003<sup>66</sup> regarding jurisdiction;
  - (d) the provisions of Council Regulation (EC) No 4/2009<sup>67</sup> regarding jurisdiction.
2. In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following provisions shall apply in respect of the assessment of the legal force of agreements of jurisdiction or choice of court agreements concluded before the end of the transition period:
- (a) Article 25 of Regulation (EU) No 1215/2012;
  - (b) Article 4 of Regulation (EC) No 4/2009.
3. 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/or enforcement of judgments given, decisions given, authentic instruments formally drawn up or registered, court settlements approved or concluded and agreements concluded before the end of the transition period:
- (a) Regulation (EU) No 1215/2012 shall apply to the recognition and enforcement of judgments given, to authentic instruments formally drawn up or registered, and to 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, 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, court settlements approved or concluded, and authentic instruments established before the end of the transition period;
  - (d) Regulation (EC) No 805/2004 of the European Parliament and of the Council<sup>68</sup> shall apply to judgments given, 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.
4. 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 3 of this Article and requests

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<sup>66</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>67</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>68</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).

received by the central authority of the requested Member State before the end of the transition period;

- (c) Regulation (EU) 2015/848 of the European Parliament and of the Council<sup>69</sup> shall apply to main insolvency proceedings that were opened before the end of the transition period;
- (d) Regulation (EC) No 1896/2006 of the European Parliament and of the Council<sup>70</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>71</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>72</sup> shall apply to certificates issued before the end of the transition period.

#### *Article 64*

#### *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>73</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>74</sup> shall apply to requests received before the end of the transition period by one of the following:

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<sup>69</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>70</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>71</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>72</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>73</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).

- (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;
- (c) Council Decision 2001/470/EC<sup>75</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 seven 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 65*

#### *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>76</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 seven 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>77</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>78</sup> shall apply to applications received by the deciding authority before the end of the transition period.
2. Point (a) of paragraph 1, point (a) of paragraph 2 and point (a) of paragraph 3 of Article 61 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>79</sup>.

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<sup>74</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).

<sup>75</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>76</sup> Council Directive 2002/8/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>77</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>78</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>79</sup> OJ L 299, 16.11.2005, p. 62.

3. Point (a) of Article 64 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>80</sup>.

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<sup>80</sup> OJ L 300 17.11.2005, p. 55.

**TITLE VII**  
**DATA AND INFORMATION PROCESSED OR OBTAINED BEFORE THE END OF THE TRANSITION**  
**PERIOD, OR ON THE BASIS OF THIS AGREEMENT**

*Article 66*

*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>81</sup>;
- (c) Directive 2002/58/EC of the European Parliament and of the Council<sup>82</sup>;
- (d) any other provisions of Union law governing the protection of personal data.

*Article 67*

*Protection of personal data*

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 in accordance with 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.

*Article 68*

*Requests for assistance*

Article 61(1) to (7) of Regulation (EU) 2016/679 and Article 50 of Directive (EU) 2016/680 shall apply in respect of requests for assistance received before the end of the transition period.

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<sup>81</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>82</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 69**Confidential treatment and restricted use of data and information*

Without prejudice to Article 67, 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 the United Kingdom either before the end of the transition period or on the basis of this Agreement.

*Article 70**Information security*

1. The provisions of Union law on the protection of EU and Euratom classified information as well as the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union<sup>83</sup> shall apply in respect of information obtained by the United Kingdom or 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 where the tendering, contracting or grant award procedure was launched before the end of the transition period.
3. The United Kingdom may continue to use cryptographic products for the protection of EU and Euratom classified information, provided those products were configured and approved before the end of the transition period.
4. Regarding cryptographic products referred to in paragraph 3, the United Kingdom shall ensure that:
  - (a) the cryptographic products are used solely for the protection of information referred to in paragraph 1;
  - (b) the cryptographic products are not removed from its territory;
  - (c) for the purpose of disposal, the cryptographic products are handed over to the crypto approval authority;
  - (d) the requirements set out in agreements between a Member State the national crypto approval authority of which has approved the cryptographic product and the United Kingdom are complied with.

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<sup>83</sup> OJ C 202, 8.7.2011, p. 13.

**TITLE VIII**  
**ONGOING PUBLIC PROCUREMENT AND SIMILAR PROCEDURES**

*Article 71*

*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>84</sup>, 2014/23/EU<sup>85</sup>, 2014/24/EU<sup>86</sup> and 2014/25/EU<sup>87</sup> of the European Parliament and of the Council, Regulations (EC) No 2195/2002<sup>88</sup> and (EC) No 1370/2007<sup>89</sup> of the European Parliament and of the Council, Article 4 of Council Regulation (EEC) No 3577/92<sup>90</sup>, Articles 11 and 12 of Council Directive 96/67/EC<sup>91</sup>, Articles 16, 17 and 18 of Regulation (EC) 1008/2008<sup>92</sup> of the European Parliament and of the Council, Articles 6 and 7 of Regulation (EU) 2017/352<sup>93</sup> of the European Parliament and of the Council, and any other specific rules of Union law governing public procurement procedures.

*Article 72*

*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 thereof;
- (b) in respect of procedures referred to in Article 29(2), (3) and (4) of Directive 2009/81/EC, Article 33(2) to (5) of Directive 2014/24/EC and Article 51(2) of Directive 2014/25/EC which relate to the performance of the following framework agreements concluded by

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<sup>84</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>85</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>86</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>87</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>88</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>89</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>90</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>91</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>92</sup> Regulation (EC) 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>93</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).

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 thereof; 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, according to the relevant rules, persons entitled to otherwise submit applications, from the Member States and the United Kingdom in relation to the procedures referred to in paragraph 1.
  3. A procedure referred to in paragraph 1 shall be considered 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 launched when the contracting authority or contracting entity has 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, according to the relevant rules, persons entitled to otherwise submit applications, 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, movement of goods, provision of services, recognition of professional qualifications or intellectual property.

*Article 73*  
*Review procedures*

Council Directives 89/665/EEC<sup>94</sup> and 92/13/EEC<sup>95</sup> shall apply in respect of the public procurement procedures referred to in Article 72 of this Agreement which fall within the scope of those Directives.

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<sup>94</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>95</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, 23.3.92, p. 14).

*Article 74*  
*Cooperation*

1. Article 61(2) of Directive 2014/24/EU shall apply in respect of the procedures referred to in point (a) of Article 72(1) of this Agreement launched by contracting authorities and contracting entities from the United Kingdom.
2. The Publications Office of the European Union shall publish the contract award notices transmitted by the contracting authorities and contracting entities from the United Kingdom in relation to the procedures referred to in point (a) of Article 72(1).

**TITLE IX  
EURATOM RELATED ISSUES**

*Article 75  
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 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 Article 197(1) of the Euratom Treaty;
- (d) "ores" means ores as defined in Article 197(4) of the Euratom Treaty;
- (e) "source materials" means source materials as defined in Article 197(3) of the Euratom Treaty;
- (f) "nuclear material" means ores, source materials and special fissile materials;
- (g) "spent fuel and radioactive waste" means spent fuel and radioactive waste as defined in Articles 3(7) and 3(11) of Council Directive 2011/70/Euratom<sup>96</sup>.

*Article 76*

*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 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.
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 and of the Treaty on the Non-Proliferation of Nuclear Weapons or any relevant international treaties or conventions to which the United Kingdom is a party.

*Article 77  
Safeguards*

The United Kingdom shall implement a safeguards regime applying a system offering equivalent effectiveness and coverage as that provided by the Community in the territory of the United Kingdom until the end of the transition period.

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<sup>96</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 78*

*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 relating to any nuclear equipment or material 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 79*

*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 material 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 referred to in paragraph 2 is with a Member State, or with persons or undertakings established in the territory of a Member State, the rights of the Community arising under the Euratom Treaty from ownership pursuant to Article 86 of that Treaty shall be preserved. In particular, the Community shall have the following rights:
  - (a) 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;
  - (b) the right to approve the sale of the materials concerned to any person or undertaking established in the territory of the United Kingdom or in a third country, before that sale takes place;
  - (c) the right to approve any transfer of the materials concerned to a third country before that transfer takes place.
4. Member States, persons or undertakings that had the unlimited right of use and consumption of special fissile materials located in the territory of the United Kingdom at the end of the transition period shall retain that right.

*Article 80*

*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 y+1] shall become the property of the United Kingdom. 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 related to the year 2020.

2. The United Kingdom shall assume all rights, liabilities and obligations associated with the equipment and other property referred to in paragraph 1.

*Article 81*

*Spent fuel and radioactive waste*

Article 4 of Directive 2011/70/Euratom shall apply in respect of spent fuel and radioactive waste generated in the United Kingdom and 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 82*

*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 for any proceedings brought before it by the United Kingdom or against the United Kingdom before the end of the transition period. That jurisdiction shall extend 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. 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 referred to it before the end of the transition period.
3. For the purposes of this Chapter, an application or a request for preliminary ruling shall be considered as having been, respectively, brought or referred to the Court of Justice of the European Union before the end of the transition period if 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, before the end of the transition period.

*Article 83*

*New cases before the Court of Justice*

1. If the European Commission or a Member State considers that the United Kingdom has failed to fulfil an obligation under the Treaties or Part Four of this Agreement before the end of the transition period, it may bring the matter before the Court of Justice of the European Union in accordance with the procedural requirements laid down in Article 258 TFEU or, as the case may be, Article 259 TFEU. The Court of Justice of the European Union shall have jurisdiction over such cases.
2. Where in a case before a court or tribunal in the United Kingdom a question is raised concerning the interpretation of the Treaties or the validity or interpretation of acts of the institutions, bodies, offices or agencies of the Union relating to facts that occurred before the end of the transition period and where that court or tribunal considers that a decision on that question is necessary to enable it to give judgment in that case, it may request the Court of Justice of the European Union to give a preliminary ruling on that question in accordance with the procedural requirements laid down in Article 267 TFEU. The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings on such requests.

*Article 84*

*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 85*

*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 those handed down after the end of the transition period in proceedings referred to in Articles 82 and 83, shall have binding force in their entirety on and in the United Kingdom.
2. 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.
3. Article 260 TFEU shall apply in respect of compliance by the United Kingdom with judgments and orders of the Court of Justice of the European Union given before the end of the transition period or pursuant to Articles 82(1) and 83(1) of this Agreement.

*Article 86*

*Right to intervene and to submit written observations*

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 82 have become final, the United Kingdom may intervene and submit written observations in other cases before the Court of Justice of the European Union in the same way as Member States.

*Article 87*

*Representation before the Court*

1. Where, before the end of the transition period, a lawyer authorised to practice before the courts of the United Kingdom represented or assisted a party before the Court of Justice of the European Union in proceedings brought before it or in requests for preliminary rulings referred to it before the end of the transition period, this lawyer may continue to represent or assist that party in those proceedings or requests.
2. Lawyers authorised to practice before the courts 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 83.

**CHAPTER 2**

**Administrative procedures**

*Article 88*

*Ongoing administrative procedures*

1. The institutions, bodies, offices and agencies of the Union shall continue to be competent for administrative procedures concerning compliance with Union law by the United Kingdom and natural and legal persons residing or established in the United Kingdom, which were initiated before the end of the transition period.

2. For the purposes of this Chapter, an administrative procedure shall be considered as having been initiated before the end of the transition period if it has been formally registered with the Union institution, body, office or agency before the end of the transition period.

#### *Article 89*

##### *New administrative procedures*

The institutions, bodies, offices and agencies of the Union shall be competent to initiate new administrative procedures concerning compliance with Union law by the United Kingdom and natural and legal persons residing or established in the United Kingdom, where the facts forming the subject matter of the administrative procedure occurred before the end of the transition period.

#### *Article 90*

##### *Procedural rules*

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 88 and 89.

#### *Article 91*

##### *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 in the procedures referred to in Articles 88 and 89, 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. The legality of a decision referred to in paragraph 1 may be reviewed exclusively by the Court of Justice of the European Union in accordance with Article 263 TFEU.
3. Article 299 TFEU shall apply in the United Kingdom in respect of the enforcement of decisions referred to in paragraph 1 that impose pecuniary obligations on natural and legal persons residing or established in the United Kingdom.
4. If the United Kingdom does not comply with a decision referred to in paragraph 1, or fails to give legal effect in the United Kingdom's legal order to a decision referred to in that paragraph addressed to a natural or legal person residing or established in the United Kingdom, the Union or a Member State may refer the matter to the Court of Justice of the European Union in accordance with the procedural requirements laid down in Article 258 TFEU or, as the case may be, in Article 259 TFEU. The Court of Justice of the European Union shall have jurisdiction over such cases. Articles 84, 85 and 87 of this Agreement shall apply.

#### *Article 92*

##### *Other ongoing procedures*

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

at the end of the transition period, shall continue and be concluded in compliance with that Regulation.

2. Article 12(3) and Articles 14, 15 and 16 of Directive 2003/87/EC of the European Parliament and of the Council<sup>97</sup> shall apply to and in the United Kingdom in respect of greenhouse gases emitted during the last year of the transition period.

By way of derogation from Article 7 of this Agreement, the United Kingdom and operators in the United Kingdom shall have access, to the extent necessary to comply with the first subparagraph of this paragraph to the Union registry established by Commission Regulation (EU) No 389/2013<sup>98</sup>

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<sup>97</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

<sup>98</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).

**TITLE XI**  
**ADMINISTRATIVE COOPERATION PROCEDURES**

*Article 93*

*Administrative cooperation for customs*

1. Administrative cooperation procedures between a Member State and the United Kingdom set out in [Annex y+2] 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 y+2] 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 94*

*Administrative cooperation for matters related to indirect tax*

1. Council Regulation (EU) No 904/2010<sup>99</sup> shall apply until 5 years after the end of the transition period in respect of cooperation between the competent authorities responsible for the application of the laws on value added tax in the Member States and the United Kingdom in relation to transactions that took place before the end of the transition period.
2. Council Regulation (EU) No 389/2012<sup>100</sup> shall apply until 5 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 operations that took place before the end of the transition period.

*Article 95*

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

Council Directive 2010/24/EU<sup>101</sup> shall apply until 5 years after the end of the transition period between the Union and the United Kingdom in respect of claims related to amounts that became due before the end of the transition period.

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<sup>99</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>100</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).

<sup>101</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).

**TITLE XII  
PRIVILEGES AND IMMUNITIES**

*Article 96  
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. 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>102</sup> shall apply to determine the categories of officials and other servants covered by Articles 105 to 108 of this Agreement.

**CHAPTER 1  
Property, funds, assets and operations of the Union**

*Article 97  
Inviolability*

Article 1 of Protocol (No 7) on the Privileges and Immunities of the European Union ("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 European Union before the end of the transition period until they are no longer in use or have been removed from the United Kingdom, as confirmed by the Union.

*Article 98  
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, as confirmed by the Union.

*Article 99  
Taxation*

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

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<sup>102</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).

**CHAPTER 2**  
**Communications**

*Article 100*  
*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 101*  
*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 by members of the European Parliament, irrespective of their nationality, including former members, in the performance of their duties before the end of the transition period.

*Article 102*  
*Social security*

Former members of the European Parliament, irrespective of their nationality, drawing a pension in this capacity, as well as persons entitled to the survivor's pension related thereto, shall be exempted from obligatory affiliation to and payment into national social security systems in the United Kingdom, provided that they were members of the European Parliament before the end of the transition period.

*Article 103*  
*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>103</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 the survivor's pension, 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.

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<sup>103</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).

#### **CHAPTER 4**

#### **Representatives of Member States and of the United Kingdom taking part in the work of the institutions of the Union**

##### *Article 104*

##### *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 taking part in the work of the institutions, agencies, offices and bodies of the Union, their advisers and technical experts, and members of the advisory bodies of the Union, irrespective of their nationality, as regards their participation in that 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.
2. Article 10 of the Protocol on the Privileges and Immunities shall apply in the Union in respect of representatives of the United Kingdom taking part in the work of the institutions, agencies, offices and bodies of the Union, their advisers and technical experts, as regards their participation in that work 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 105*

##### *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 by members of the institutions, officials and other servants of the Union of any nationality in their official capacity, and former members, former officials and former other servants, including their words spoken or written:
  - (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 82 and 83 have become final, and 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 82 and 83.
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 their spouses and dependent members of their families, irrespective of their nationality, if those

officials and other servants entered the service of the Union before the end of the transition period.

*Article 106*  
*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, who entered the service of the Union before the end of the transition period, provided that the persons concerned are liable to pay a tax for the benefit of the Union on salaries, wages, emoluments and pensions paid to them by the Union.

*Article 107*  
*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 a spouse not separately engaged in a gainful occupation, and children dependent on and in the care of such a member, official or other servant, irrespective of their nationality.
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 for tax purposes in the United Kingdom at the time of entering the service of the Union, as well as 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 108*  
*Social security contributions*

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

*Article 109*  
*Transfer of pension rights*

In respect of officials and other servants of the Union, including former officials and former other servants, of any nationality, 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) and (2) and Article 12 of Annex VIII to the Staff Regulations of Officials of the European Union<sup>104</sup> or Articles 39, 109 and 135 of the Conditions of Employment of Other Servants of the European Union, the obligations incumbent on the United Kingdom shall be the same as those existing before the end of the transition period.

*Article 110*  
*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, including former other servants, of any nationality, 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 111*  
*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 provide a confirmation of whether a person is covered by this Title. The authorities of the United Kingdom shall accept such confirmation as determinative.

*Article 112*  
*European Central Bank*

1. This Title shall apply in respect of the European Central Bank ("ECB"), the members of its organs, its staff, and representatives of the national central banks in the European System of Central Banks taking part in its activities.
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, representatives of the national central banks in the European System of Central Banks taking part in its activities, and any property, assets and operations of the ECB in the United Kingdom held, managed or conducted pursuant to

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<sup>104</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).

Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank.

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, and ancillary activities related thereto, of the ECB in the United Kingdom or with United Kingdom counterparts 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 113*  
*European Investment Bank*

1. This Title shall apply in respect of the European Investment Bank (“EIB”), the members of its organs, its staff and representatives of the Member States taking part in its activities, as well as to 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, notably 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 representatives of the Member States taking part in its activities, as well as to 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, notably 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, notably 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, and ancillary activities related thereto, of the EIB or 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, notably the European Investment Fund, in the United Kingdom or with United Kingdom counterparts, 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, disposure, or completion.

*Article 114*  
*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 notification by the Union of the completion date of the relocation will constitute the termination date of the aforementioned host agreements.

**TITLE XIII**  
**OTHER ISSUES RELATING TO THE FUNCTIONING OF THE INSTITUTIONS, BODIES, OFFICES AND**  
**AGENCIES OF THE UNION**

*Article 115*  
*Obligation of professional secrecy*

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

*Article 116*  
*Obligation of professional discretion*

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

*Article 117*  
*Access to documents*

1. For the purposes of the relevant provisions of Union law on access to documents of the institutions, agencies, offices and bodies of the Union, all references to Member States and their authorities shall be read as including the United Kingdom and its authorities in respect of documents drawn up by or obtained by the institutions, agencies, offices and bodies of the Union before the end of the transition period, or thereafter 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>105</sup> and Article 5 of Decision ECB/2004/3 of the European Central Bank<sup>106</sup> shall apply in the United Kingdom in respect of all documents falling within the scope of those provisions obtained by the United Kingdom before the end of the transition period, or thereafter in connection with activities of the Union pursuant to this Agreement.

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<sup>105</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>106</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).

*Article 118*  
*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, representatives of the national central banks in the European System of Central Banks taking part in its activities, 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. The ECB shall be exempt from the necessity to register or to obtain any form of licence, permit or other authorisation or permission in 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, and ancillary activities related thereto, of the ECB in the United Kingdom or with United Kingdom counterparts 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 119*  
*European Investment Bank*

1. Articles 13, 20(2), 23(1), 23(4) and 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 representatives of the Member States taking part in its activities, as well as to any subsidiaries and other entities established by the EIB before the date of entry into force of this Agreement in accordance with Article 28(1) of Protocol (No 5) on the Statute of the European Investment Bank, notably the European Investment Fund. The EIB and the European Investment Fund shall be exempt from the necessity to register, or to obtain any form of licence, permit or other authorisation or permission in the United Kingdom to carry out their operations. The currency of the United Kingdom shall remain freely convertible and transferable 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, notably 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, and ancillary activities related thereto, of the EIB or 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, notably the European Investment Fund, in the United Kingdom or with United Kingdom counterparts, 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, disposure, or completion.

*Article 120*  
*European Schools*

1. The United Kingdom shall be bound by the Convention defining the Statute of the European Schools<sup>107</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 they enjoy the rights provided for in Article 5(2) of the Convention defining the Statute of the European Schools.

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<sup>107</sup> OJ L 212, 17.8.1994, p. 3.

\* Explanatory note: i.e. until 31 August 2021.

**PART FOUR  
TRANSITION**

*Article 121  
Transition period*

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

*Article 122  
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 applicable 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, Articles 20(2)(b), 22 and the first paragraph of Article 24 TFEU, Articles 39 and 40 of the Charter of Fundamental Rights of the European Union, and acts adopted on the basis of those provisions.
2. Should an agreement between the Union and the United Kingdom governing their future relationship in the area of the Common Foreign and Security Policy and the Common Security and Defence Policy become 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 entry into force 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 has been granted after the date of entry into force of this Agreement; or
    - (b) within the framework of which no acts have been 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, however, not have the right to notify its wish to take part in the application of the measures pursuant to Title V of Part Three of the TFEU other than those referred to in Article 4a of Protocol No 21.

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, 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 Articles 42(6) and 46 TEU and of Protocol (No 10) on permanent structured cooperation established by Article 42 of the Treaty on European Union, any references to Member States shall be understood as not including the United Kingdom. This shall not preclude the participation of the United Kingdom as a third country to the extent allowed by a Union act adopted on the basis of Articles 42(6) and 46 TEU;
  - (b) where acts of the Union provide for the participation of Member States, nationals of Member States or natural or legal person residing or established in a Member State in an information exchange, procedure or programme and where such participation would grant access to security related sensitive information that a third country or natural or legal person residing or established in a third country is not to have knowledge of, these references to Member States shall be understood as not including the United Kingdom.

*Article 123*  
*Institutional arrangements*

1. Notwithstanding Article 122, during the transition period Article 6 shall apply.
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.
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>108</sup>.
4. For the purposes of Articles 282 and 283 TFEU and of Protocol (No 4) on the Statute of the European system of central banks and of the European Central Bank, 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 and from Article 6, during the transition period, representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation and on an case-by-case basis, exceptionally attend meetings or parts of meetings of the committees referred to in Article 3(2) of Regulation (EU) No 182/2011, of Commission expert groups, of other similar entities, or 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 the following conditions is fulfilled:

<sup>108</sup> This should in particular concern Articles 7, 30, 42(4), 48(2) – (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.

- (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 it 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 and authorisation procedures provided for in Union law.

#### *Article 124*

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

1. Without prejudice to Article 122(2), during the transition period, the United Kingdom shall be bound by the 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.
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 the United Kingdom participates in its own right.
3. In accordance with the principle of sincere cooperation, the United Kingdom shall abstain, 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 not become bound by international agreements entered into in its own capacity in the areas of exclusive competence of the Union, unless authorised to do so by the Union.
5. Without prejudice to Article 122(2), whenever there is a need for coordination, the United Kingdom may be consulted, on a case-by-case basis.
6. 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 125*

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

As regards the fixing of fishing opportunities within the meaning of Article 43(3) TFEU for any period prior to the end of the transition period, the United Kingdom shall be consulted by the European

Commission in respect of the fishing opportunities related to the United Kingdom, including in the context of the preparation of relevant international consultations.

*Article 126*  
*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 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 as regards the interpretation and application of this Agreement.

**PART FIVE  
FINANCIAL PROVISIONS**

**CHAPTER 1  
General provisions**

*Article 127*

*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 the amounts, liabilities, calculations, accounts and payments referred to in this Part shall be drawn up and implemented in euro.

**CHAPTER 2  
The United Kingdom's contribution and participation for the years 2019 and 2020**

*Article 128*

*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) 1311/2013<sup>109</sup> or Council Decision 2014/335/EU, Euratom<sup>110</sup> adopted on or after the date of entry into force of this Agreement shall not apply to the United Kingdom in so far as those amendments have an impact on the United Kingdom's financial obligations.

*Article 129*

*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 128(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;

<sup>109</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>110</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).

- (b) Council Regulation (EU, Euratom) No 609/2014<sup>111</sup>, including Article 12 thereof on the interest on amounts made available belatedly and Article 11 thereof on the handling of the opt-out,
- (c) Council Regulation (EU, Euratom) No 608/2014<sup>112</sup> and in particular Article 1 thereof in relation to the calculation of the surplus and Articles 2 to 8 thereof on the implementing measures for the system of own resources;
- (d) Council Regulation (EEC, Euratom) No 1553/89<sup>113</sup>;
- (e) Council Regulation (EC, Euratom) No 1287/2003<sup>114</sup>;
- (f) Commission Implementing Decision (EU, Euratom) 2016/2365<sup>115</sup>;
- (g) Commission Implementing Decision (EU, Euratom) 2016/2366<sup>116</sup>;
- (h) Regulation (EU) 2018/xxx of the European Parliament and of the Council<sup>117</sup> (the "Financial Regulation");
- (i) Article 287 TFEU on the role of the Court of Auditors as well as other rules concerning that institution;
- (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>118</sup> and Council Regulation (EC, Euratom) No 2988/95<sup>119</sup>;
- (k) the annual budgets for the financial years until 2020 or, in case the annual budget is not adopted, the rules applicable in accordance with Article 315 TFEU.

<sup>111</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).

<sup>112</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>113</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>114</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>115</sup> Commission Implementing Decision (EU, Euratom) 2016/2365 of 19 December 2016 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 350, 22.12.2016, p. 24).

<sup>116</sup> Commission Implementing Decision (EU, Euratom) 2016/2366 of 19 December 2016 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 350, 22.12.2016, p. 30).

<sup>117</sup> Regulation (EU) 2018/xxx of the European Parliament and of the Council of [xxx] on the financial rules applicable to the general budget of the Union (OJ L [...], [...], p. [...]).

<sup>118</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>119</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).

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 financing 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 31 December 2020, the payment shall be made on the earliest date referred to in Article 141(1) following the date on which the own resources are to be made available;
- (c) where a correction of the own resources is related to a single year, the share of the United Kingdom shall be calculated on the basis of the percentage of its contribution to the Union budget of that year according to the annual accounts of the relevant year. Where a correction of the own resources is related to more than one year, the share of the United Kingdom shall be calculated in accordance with Article 132;
- (d) by way of derogation from Article 6 of this Agreement, the representatives or experts of the United Kingdom, or experts designated by the United Kingdom may, upon invitation and on a case-by-case basis, 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 (EU, Euratom) No 1287/2003, to the extent that the work of such committees concerns the financial years until 2020;
- (e) any correction or adjustments to the own resources based on value added tax 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 no later than 31 December 2030;
- (f) the separate account for traditional own resources (the so-called B account) shall be fully liquidated by 31 December 2025. Prior to 20 February 2026, a share of the amounts still in that account and not being subject to European Commission inspection findings communicated prior to that date under the own resources provision still in force shall be made available to the Union budget on the basis of the percentage of amounts remaining in the separate account by that date corresponding to the overall percentage of the amounts reported to the European Commission in the framework of the procedure laid down in Article 13 of Regulation (EU) No 609/2014 during the period between 1 January 2014 and 31 December 2020.

#### *Article 130*

#### *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.
2. By way of derogation from Part Four, the United Kingdom and entities established in 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>120</sup> and the European Fund for Sustainable Development (EFSD) established by Regulation (EU) 2017/1601 of the European Parliament and of the Council<sup>121</sup>, provided that those financial operations were decided by the entities and bodies, including the EIB or the European Investment Fund ("EIF") or persons entrusted with the implementation of part of these actions before the date of entry into force of this Agreement, even if the signature of those financial operations took place after that date.

*Article 131*

*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 with regard to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities.
2. The Union law referred to in paragraph 1 shall include in particular the following provisions, including any amendment thereto, 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 (d) of Article 2 of the Financial Regulation, establishing Union programmes referred to in the budget remarks concerning titles, chapters, articles or items on 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 6 of this Agreement, the representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation and on a case-by-case basis, exceptionally attend, without voting rights, meetings of the committees that assist the European Commission in the implementation and the management of the programmes established by Union law referred to in paragraph 1 or established by the European Commission

<sup>120</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>121</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).

in respect of the implementation of that law, to the extent that their work concerns the financial years until 2020 and that no security restrictions apply.

*Article 132*  
*Share of the United Kingdom*

The United Kingdom's share referred to in the second sentence of point (c) of Article 129(3), and in Articles 133 to 140 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 by all Member States and the United Kingdom during that period, on the basis of the Union's final implemented budgets for 2019 and 2020.

*Article 133*  
*Outstanding commitments*

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

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

- (a) those 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 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. It shall communicate that amount to the United Kingdom, adding a list with the reference of each commitment, the budget lines associated, and the amount for each associated budget line.
3. The Union shall, by 31 March of each year, 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 the decommitments made in the previous year, including an update of the list referred to in paragraph 2; and
  - (b) an estimate of the expected payments in the current year based on the level of payment appropriations in the budget and the expected contribution of the United Kingdom to those payments.
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 and commitments

made in 2021 on commitment appropriations carried over from 2020 referred to in paragraph 1. 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 share of the United Kingdom in the financing of the budget for 2020 of the amount of payment appropriations carried over from 2020 to 2021 in accordance with Article 13 of the Financial Regulation.

*Article 134*  
*Fines decided before 31 December 2020*

In respect of a fine decided by the Union before 31 December 2020 that becomes definitive after that date and which does not constitute assigned revenue, the Union shall reimburse to the United Kingdom its share of the amount of the fine collected by the Union.

*Article 135*  
*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;
  - (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 (EAGF) or already included in the outstanding commitments (RAL).
2. In particular, the United Kingdom shall contribute to its share of the Union liability for the pension and other employee benefits as it stands on 31 December 2020. Payments related to this liability shall be made when the amounts fall due.
3. The Union shall communicate to the United Kingdom by 31 March of each year, starting in 2021, an overview of the payments made corresponding to liabilities outstanding at 31 December 2020 during the previous year, and the amount of the contribution of the United Kingdom calculated as its share on those payments.
4. By 31 March of each year, starting in 2021, the Union shall communicate to the United Kingdom a specific document on pensions related to the situation at 31 December of the preceding year for the liability referred to in paragraph 2, which shall:
  - (a) describe, by groups of staff divided into tranches of 5 years on the basis of their age on 31 December 2020, the remaining liability of the Union for the staff covered by the Staff

Regulations of Officials of the European Union and the Conditions of Employment of Other servants of the European Union, and for other retirement benefit schemes;

- (b) identify the remaining liabilities linked to the retirement benefits and those linked to the Joint Sickness Insurance Scheme in relation to the healthcare costs which must be paid during beneficiaries' post-activity periods (net of their contributions to the scheme) payable to the members of the scheme who are receiving, or who will receive, a retirement, invalidity or survivor pensions for which the United Kingdom is to cover its share of the liability;
- (c) set out, except in 2021, the evolution of the remaining liability in terms of mortality of the staff concerned, their retirement date and other parameters explaining the evolution;
- (d) provide a detailed calculation of the payments and the United Kingdom's share of the payments made in the previous year and the expected payments for the current year.

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

#### *Article 136*

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

1. The United Kingdom shall be liable to the Union for its share of the financial liabilities of the Union arising from financial operations decided by the European Parliament and the Council, by the European Commission or approved by the bodies, entities or persons directly entrusted with the implementation before the date of entry into force of this Agreement related to:
  - (a) loans for financial assistance in accordance with Council Regulation (EU) No 407/2010<sup>122</sup>, Council Regulation (EC) No 332/2002<sup>123</sup>, the decisions of the European Parliament and the Council providing macro-financial assistance to various countries on the base of a provisioning in accordance with Council Regulation (EC, Euratom) No 480/2009<sup>124</sup>;
  - (b) budgetary guarantees given in favour of the EIB through the EFSI, in accordance with Regulation (EU) 2015/1017, and the external lending mandate in accordance with Regulation (EC, Euratom) No 480/2009 and Decision No 466/2014/EU of the European Parliament and the Council<sup>125</sup>, or in favour of eligible counterparts (EFSD).

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

<sup>122</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>123</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>124</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>125</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).

- (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 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 shall be disclosed, respectively, for the financial operations referred to in this paragraph decided on or after the date of entry into force of this Agreement.

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

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 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 the 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 on or after the date of entry into force of this Agreement;
- (b) its default provisioning rate, calculated as the ratio between the United Kingdom's initial provisioning for this instrument and the financial liabilities as of 31 December 2020 arising from the financial operations decided before the date of entry into force of this Agreement.

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

- (a) the financial liabilities arising from those financial operations as of 31 December of the preceding year;

- (b) the payments made in the preceding year from the Union related to those financial operations;
- (c) the United Kingdom's current provisioning and 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;
- (e) the accumulated amounts since 31 December 2020 for the amounts referred to in points (b) and (d) of this paragraph;
- (f) the amounts recovered and the net revenues entered in the Union budget as referred to in paragraph 2 for the preceding year;
- (g) 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 that provides for a provisioning from the Union budget, the Union shall:

- (a) calculate the United Kingdom's current provisioning defined as the United Kingdom's initial provisioning reduced by:
  - (i) the United Kingdom's share of the accumulated payments referred to in point (e) of paragraph 4 made from the Union budget since 31 December 2020 related to financial operations decided 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 133(3);
  - (iii) the accumulated level of reimbursements made to the United Kingdom as of 31 December 2020, as referred to in point (e) 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 financial liabilities 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 of the instrument, the Union shall be liable to the United Kingdom for that instrument for the amount obtained by multiplying the amount of 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 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 provided for 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 133(3).

7. After 31 December 2020, if payments are made from the Union budget for the financial operations referred to in paragraph 1 related to an instrument for which there is no provisioning, the United Kingdom shall be liable to the Union for that instrument for its share of the payments made as provided for in point (b) of paragraph 4.
8. If the United Kingdom's current provisioning is positive once the Union's financial liabilities arising from the 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 paragraph 5.
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 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 between the amount of financial operations decided 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.

#### *Article 137*

#### *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, the Union shall identify the financial operations that have been decided or approved before the date of entry into force of this Agreement by the European Commission or 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 and the financial operations that have been decided or approved on or after the date of entry into force of this Agreement, until the full amortisation of the financial operations decided by those financial institutions before the date of entry into force of this Agreement.

On 31 July 2019, in the report referred to in the second subparagraph of Article 136(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 under earlier financial perspectives:

- (a) the financial liabilities arising from the operations decided by the European Commission, or 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 payments made by the European Commission for the financial instrument and the amount committed for the financial instrument and not yet paid at that date.
2. On 31 March of each year, starting in 2021, and until their amortisation, expiry or termination, for each financial instrument referred to in paragraph 1, the Union shall communicate to the United Kingdom the information available on the financial operations referred to in paragraph 1 that have been decided or approved before the date of entry into force of this Agreement and

those that have been decided or approved on or after that date. For each instrument, the information shall contain:

- (a) the financial liabilities as of 31 December of the preceding year arising from the financial operations decided 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 of 31 December of the preceding year arising from the financial operations decided 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 related to financial operations that have been decided by the European Commission, or 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 202(2) of the Financial Regulation, other than the returns provided for in point (f) of this paragraph, related to financial operations decided 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 invested;
- (g) the part of the amount of the provisioning fund or the fiduciary accounts which has not been disbursed and 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 on 31 December of the year before the calculation is made.

*Article 138*  
*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.

The relevant amount shall be reimbursed to the United Kingdom in -5- equal annual instalments.

*Article 139*  
*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 relevant amount shall be reimbursed to the United Kingdom in 5 equal annual instalments.

*Article 140*  
*Contingent liabilities related to legal proceedings*

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 related to legal proceedings concerning financial interests of the Union or resulting from the execution of Union programmes and policies, provided that the facts forming the subject matter of those proceedings 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 141*  
*Payments after 2020*

1. The 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 80(1);
  - (b) referred to in points (a), (b) and (c) of Article 129(3) by the earlier date following the date of adjustment, or correction;
  - (c) 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 earlier date following the date of the corrective measure;
  - (d) referred to in Article 133(4) in two equal instalments;
  - (e) referred to in Article 134, by the earlier date following the adjustment of the own resources for the Member States resulting from the definitive entry of the fine into the Union budget;
  - (f) referred to in Article 135(2) and in Articles 136 to 139;
  - (g) referred to in Article 140(2), by the earlier date following the date of the communication referred to therein;

- (h) referred to in paragraph 3 as possible accrued interest.
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, 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 142*

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

The European Central Bank shall on behalf of the Union reimburse to the Bank of England the paid-in capital provided by it. 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 143*

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

1. The United Kingdom shall remain liable, in accordance with 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, as well as for other risks assumed by the EIB.

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 not associated with specific financial operations and not attributable to the stock of financial operations built after the date of entry into force of this Agreement, 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.

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 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, in nominal terms, to the counterparty as initially approved;
- (c) results from a change to an EIB financial operation by the Board of Directors of the EIB approved 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 initially approved; 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 to 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: when the amount of the remaining non-amortising exposure under the EIB financial operations exceeds the amount of the remaining amortising exposure under the EIB financial operations, the remaining non-amortising exposure shall be treated as being equal to the remaining amortising exposure at that time.

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 liability shall at no point exceed the amount of the share of the United Kingdom 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 time, be limited to an amount obtained by applying the ratio of the United Kingdom subscribed capital of the EIB and the total subscribed capital of the EIB as it 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 (a) the amount of that remaining exposure at that time, and (b) 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 share of the United Kingdom of the paid-in subscribed capital of the EIB as it stood immediately prior to the date of entry into force of this Agreement. The payment shall be made in accordance with Protocol No 5 on the Statute of the European Investment Bank. It shall be made in twelve yearly

instalments. The first eleven 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 in accordance with paragraph 5.

The obligation to pay the amount not yet paid pursuant to this paragraph shall lapse in the event that the EIB enters liquidation.

5. In addition to its liability in accordance with paragraph 3, for the purposes of paragraph 1, the United Kingdom shall be liable for its paid-in subscribed capital in 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 in accordance with paragraph 6.

This liability 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, as decided by the Board of Directors of the EIB at the relevant time, and subject to the fourth subparagraph of this paragraph. 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 the 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 calendar days from the first demand from the EIB, and subject to the fourth subparagraph.

The liability of the United Kingdom triggered in accordance with this paragraph shall be fulfilled from the share of the United Kingdom 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 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 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 not attributable to any specific financial operation or 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.

The EIB shall in each case determine the attribution of the events underlying the triggering of the liability of the United Kingdom to the relevant stock of financial operations or risks.

7. Except for the payments provided for in paragraph 4, the EIB shall not 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 March of every year 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 under the EIB financial operations, and the limit to 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 31 December of the preceding year.

The EIB shall provide to the United Kingdom timely information regarding an upcoming triggering of the liability of the United Kingdom pursuant to this Article. The United Kingdom shall treat this information as strictly confidential until the EIB lifts the confidentiality or until the liability of the United Kingdom is triggered, whichever occurs first.

#### *Article 144*

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

As from the date of entry into force of this Agreement, the United Kingdom, entities established in the United Kingdom and projects located in the United Kingdom shall not be eligible for new financial operations from the EIB group reserved for Member States, including those under Union mandates.

### **CHAPTER 5**

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

#### *Article 145*

#### *Participation in the European Development Fund*

1. The United Kingdom shall remain party to the European Development Fund ("EDF") until the closure of the 11<sup>th</sup> EDF and all previous unclosed EDFs, and shall in this respect assume the same

obligations as the Member States under the Internal Agreement<sup>126</sup> by which it was set up ('the 11<sup>th</sup> EDF Internal Agreement'), as well as the obligations resulting from previous EDFs until their closure, including obligations under Council Regulations (EU) 2015/322<sup>127</sup> and (EU) 2015/323<sup>128</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 contribution of Member States as adopted under Article 21 of Regulation (EU) 2015/323.

2. By way of derogation from Articles 6 of this Agreement, the United Kingdom may participate, as observer, without voting rights, in the EDF Committee as established in accordance with Article 8 of the 11<sup>th</sup> EDF Internal Agreement and in the Investment Facility Committee as established in accordance with Article 9 of the 11<sup>th</sup> EDF Internal Agreement.
3. The overseas countries and territories referred to in point (c) of Article 3(1) shall benefit from the 11<sup>th</sup> 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 137. Unless agreed otherwise, the United Kingdom's capital share shall not be recommitted beyond the end of the 11<sup>th</sup> EDF commitment period or rolled over into subsequent periods.

*Article 146*  
*Reuse of the decommitments*

Where the amounts from projects under the 10<sup>th</sup> EDF or from previous EDFs have not been committed in accordance with Article 1(3) of the 11<sup>th</sup> EDF Internal Agreement, or decommitted in accordance with to Article 1(4) of the 11<sup>th</sup> 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 and shall be reimbursed.

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

<sup>126</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>127</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>128</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).

*Article 147*

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

The United Kingdom shall remain liable in respect of its guarantee under Article 9 of the 4<sup>th</sup> EDF Internal Agreement<sup>129</sup>, Article 8 of the 5<sup>th</sup><sup>130</sup>, 6<sup>th</sup><sup>131</sup>, 7<sup>th</sup><sup>132</sup> and 8<sup>th</sup> EDF Internal Agreement<sup>133</sup>, Article 6 of the 9<sup>th</sup> EDF Internal Agreement<sup>134</sup> and Article 4 of the 10<sup>th</sup><sup>135</sup> and 11<sup>th</sup> EDF Internal Agreement.

**CHAPTER 6**

**Trust Funds and Facility for refugees in Turkey**

*Article 148*

*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>136</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>137</sup> [*and the future Commission decision*]. The United Kingdom shall in this respect assume the same obligations as the Member States.
2. The United Kingdom may participate, as a third country, in the relevant bodies related to the Facility for Refugees in Turkey.

**CHAPTER 7**

**Agencies of the Council and Common Security and Defence Policy operations**

*Article 149*

*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 of Common Security and Defence Policy operations, on the basis of the same contribution key as before the date of entry into force of this Agreement.

<sup>129</sup> OJ L 25, 30.1.1976, p. 168.

<sup>130</sup> OJ L 347, 22.12.1980, p. 210.

<sup>131</sup> OJ L 86, 31.3.1986, p. 210.

<sup>132</sup> OJ L 229, 17.8.1991, p. 288.

<sup>133</sup> OJ L 156, 29.5.1998, p. 108.

<sup>134</sup> OJ L 317, 15.12.2000, p. 355.

<sup>135</sup> OJ L 247, 9.9.2006, p. 30.

<sup>136</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>137</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).

*Article 150**The United Kingdom's obligations after 31 December 2020*

1. Based on the accounts of the agencies and provided that the relevant liabilities have not been completely provisioned on 31 December 2020, the United Kingdom shall pay its share of the following liabilities in accordance with its financing 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.

**PART SIX  
INSTITUTIONAL AND FINAL PROVISIONS**

**TITLE I  
CONSISTENT INTERPRETATION AND APPLICATION**

*Article 151*

*References to the Court of Justice of the European Union concerning Part Two*

Where, in a case which has commenced at first instance within eight 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 a court or tribunal in the United Kingdom seized with that case considers that a decision on that question is necessary to enable it to give judgment in that case, it may request the Court of Justice of the European Union to give a preliminary ruling on that question. The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings on such requests. 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.

*Article 152*

*Monitoring of the implementation and application of Part Two*

The United Kingdom shall set up an independent Authority to monitor the implementation and application of Part Two. That Authority shall have the power to receive and investigate complaints from Union citizens and their family members, and to conduct inquiries on its own initiative, concerning alleged breaches by administrative authorities of the United Kingdom of their obligations under Part Two. The Authority may make its findings public. Where it considers that the administrative authority concerned has not acted appropriately on its findings, and without prejudice to any remedies available to the Union citizens or family members concerned, the Authority 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 adequate redress. The Authority shall inform the European Commission of any such legal actions brought before courts or tribunals in the United Kingdom. It may also consult the European Commission before bringing such legal actions and the European Commission may suggest to the Authority to bring such legal actions.

*Article 153*

*Jurisdiction of the Court of Justice of the European Union concerning Parts Three and Five*

Without prejudice to Article 83 of this Agreement, Articles 258, 260, and 267 TFEU shall apply in respect of the interpretation and application of Part Three of this Agreement and of applicable Union law referred to in Article 129 and Article 131(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 read as including the United Kingdom.

*Article 154*

*Submission of statements of case or written observations*

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. The United Kingdom shall be entitled to submit statements of case or written observations to the Court of Justice of the European Union within two months of such notification.

*Article 155*

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

Where the consistent interpretation and application of Part Two of this Agreement so requires, the European Commission may submit written observations to the courts or the tribunals in 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 doing so.

*Article 156*

*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 a regular dialogue, analogous to the one which the Court of Justice of the European Union pursues with the highest courts of the Member States.

**TITLE II**  
**INSTITUTIONAL PROVISIONS**

*Article 157*  
*Joint Committee*

1. A Joint Committee is hereby established, comprising representatives of the Union and of the United Kingdom. The Joint Committee shall be co-chaired by the Union and the United Kingdom.
2. The Joint Committee shall meet at least once a year or at the request of the Union or the United Kingdom. The Joint Committee shall set its meeting schedule and its agenda by mutual consent.
3. The Joint Committee shall be responsible for the implementation and application of this Agreement. The Union or the United Kingdom may 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) adopt its own rules of procedure, as well as rules of procedure of the specialised committees;
  - (e) consider any matter of interest relating to an area covered by this Agreement;
  - (f) adopt decisions and make recommendations as set out in Article 159;
  - (g) adopt amendments to this Agreement in the cases provided for in this Agreement.
5. The Joint Committee may:
  - (a) delegate responsibilities to the specialised committees, except those referred to in points (b), (d), (f) and (g) of paragraph 4;
  - (b) establish other specialised committees than those established by Article 158 in order to assist it in the performance of its tasks;
  - (c) change the tasks assigned to the specialised committees or dissolve any of those committees; and
  - (d) take such other action 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 158*  
*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 island of Ireland;
  - (d) the Committee on Sovereign Base Areas related issues;
  - (e) the Committee on the financial provisions.
2. 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 results and conclusions from 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 159*

##### *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 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 them. 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 160*  
*Cooperation*

The Union and the United Kingdom shall, at all times, endeavor 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 161*  
*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 162*  
*Settlement of disputes*

1. Without prejudice to Article 153, the Union or the United Kingdom may bring any dispute which concerns the interpretation or application of this Agreement before the Joint Committee.
2. The Joint Committee may settle the dispute through a recommendation. It shall be provided with all information which might be of use in making possible an in-depth examination of the situation, with a view to finding an acceptable solution. To this end, the Joint Committee shall examine all possibilities to maintain the good functioning of the Agreement.
3. The Joint Committee may, at any point, decide to submit the dispute brought before it to the Court of Justice of the European Union for a ruling. The Court of Justice of the European Union shall have jurisdiction over such cases and its rulings shall be binding on the Union and the United Kingdom.
4. If the dispute has not been settled within three months after it was brought before the Joint Committee and has not been submitted to the Court of Justice of the European Union by the Joint Committee pursuant to paragraph 3, the dispute may be submitted to the Court of Justice of the European Union for a ruling at the request of either the Union or the United Kingdom. The Court of Justice of the European Union shall have jurisdiction over such cases and its rulings shall be binding on the Union and the United Kingdom.

*Article 163*  
*Non-compliance*

1. Where the Union or the United Kingdom consider that the other has not taken the necessary measures to comply with the judgment of the Court of Justice of the European Union resulting from proceedings referred to in Article 162, either the Union or the United Kingdom may bring the case before the Court of Justice of the European Union. The Court of Justice of the European Union shall have jurisdiction over such cases and its rulings shall be binding on the Union and the United Kingdom.

2. If the Court of Justice of the European Union finds, in proceedings brought before it pursuant to paragraph 1, that the Union or the United Kingdom, as the case may be, has not complied with its judgement, it may impose a lump sum or penalty payment on it.
3. The Union or the United Kingdom may decide to suspend:
  - (a) parts of this Agreement other than Part Two; or
  - (b) parts of any other agreement between the Union and the United Kingdom, under the conditions set out in such agreement.

Any suspension under this paragraph shall be proportionate to the breach of obligation concerned, taking into account the gravity of the breach and the rights in question. It shall be subject to judicial review by the Court of Justice of the European Union.

*Article 164*  
*Procedural rules and powers*

Proceedings brought to the Court of Justice of the European Union pursuant to Article 162 or 163 shall be governed by the Rules of Procedure set out in [Annex y+3] to this Agreement.

*Article 165*  
*Suspension of benefits during the transition period*

1. Notwithstanding Article 126 of this Agreement, if during the transition period the Union considers that the United Kingdom has not fulfilled, during the transition period, an obligation under Union law as found in a judgment rendered pursuant to Article 126 of this Agreement in accordance with Article 258 TFEU, or that the United Kingdom does not respect an order rendered pursuant to Article 126 of this Agreement in accordance with Article 279 TFEU, and where the functioning of the internal market, of the customs union, or the financial stability of the Union or its Member States would be jeopardised as a result, the Union may suspend certain benefits deriving for the United Kingdom from participation in the internal market.
2. When applying paragraph 1, the Union shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons. Any suspension under paragraph 1 shall be proportionate to the breach of obligation concerned, taking into account the gravity of the breach and the rights in question, and shall not exceed three months. It may, however, be renewed.
3. The Union shall inform the United Kingdom of its intention to apply paragraph 1 and allow the United Kingdom, within 20 days, to remedy the situation. Any suspension shall take effect no earlier than 20 days after its notification to the United Kingdom.

**TITLE IV**  
**FINAL PROVISIONS**

*Article 166*  
*Annexes*

Protocols [1 to N] and Annexes [y to y+x] shall form an integral part of this Agreement.

*Article 167*  
*Authentic texts*

This Agreement, 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, shall be deposited in the archives of the Council, which shall transmit a certified copy to the United Kingdom.

*Article 168*  
*Entry into force and application*

This Agreement shall enter into force on 30 March 2019.

Parts Two and Three, with the exception of Articles 30(1) and 40, as well as Title I of Part Six and Articles 162, 163 and 164, shall apply as from the end of the transition period.

The Protocol on Ireland/Northern Ireland, with the exception of Article 10 thereof, shall apply as from the end of the transition period.

The Protocol relating to the Sovereign Base Areas in Cyprus shall apply as from the end of the transition period.

Done on [dd/mm/yyyy].

## 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 in order to ensure the orderly withdrawal of the United Kingdom from the Union;

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;

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;

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;

HIGHLIGHTING that discussions on the other scenarios may continue to be pursued in parallel, 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, and that it applies unless and until an alternative arrangement implementing another scenario is agreed;

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;

ACKNOWLEDGING that this cooperation across the full range of political, economic, societal and agricultural contexts relies to a significant extent on common Union legal and policy frameworks, as confirmed in the joint mapping exercise conducted by the Union and the United Kingdom, and that accordingly the United Kingdom's withdrawal from the Union gives rise to substantial challenges to the maintenance and development of North-South cooperation;

MINDFUL that the rights and obligations of Ireland under the rules of the Union's internal market and customs union must be fully respected;

RECALLING the commitment of the United Kingdom 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 of cooperation, including the continued operation of the North-South Implementation Bodies;

AIMING to support current and future common policies and approaches between Ireland and Northern Ireland in accordance with the 1998 Agreement;

RECOGNISING the need to respect the provisions of the 1998 Agreement regarding the constitutional status of Northern Ireland and the principle of consent;

DESIRING to create a common regulatory area on the island of Ireland in order to safeguard North-South cooperation, the all-island economy, and protect the 1998 Agreement;

HAVING REGARD to the devolution arrangements between the United Kingdom and Northern Ireland in relation to the common regulatory area;

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";

NOTING that Union law has provided a supporting framework to the provisions on Rights, Safeguards and Equality of Opportunity of the 1998 Agreement;

UNDERLINING that part or all of this Protocol may cease to apply should a future agreement between the Union and the United Kingdom be agreed which addresses the unique circumstances on the island of Ireland, including by avoiding a hard border and protecting the 1998 Agreement in all its dimensions;

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"):

## **Chapter I** **Rights of individuals**

### *Article 1* *Rights of individuals*

1. The United Kingdom shall ensure that no diminution of rights, safeguards and 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 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.

**Chapter II**  
**Movement of persons**

*Article 2*  
*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 associated rights and privileges can continue to operate without affecting the obligations of Ireland under Union law, in particular with respect to free movement for Union citizens and their family members, irrespective of their nationality, to, from and within Ireland.

**Chapter III**  
**Common regulatory area**

*Article 3*  
*Establishment of a common regulatory area*

A common regulatory area comprising the Union and the United Kingdom in respect of Northern Ireland is hereby established. The common regulatory area shall constitute an area without internal borders in which the free movement of goods is ensured and North-South cooperation protected in accordance with this Chapter.

*Article 4*  
*Free movement of goods*

1. The provisions of Union law on goods listed in Annex 2.1 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.
2. Customs legislation as defined in point (2) of Article 5 of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>138</sup> as well as other provisions of Union law providing for customs controls of specific goods or for specific purposes listed in Annex 3 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland. The territory of Northern Ireland, excluding the territorial waters of the United Kingdom (the "territory of Northern Ireland"), shall be considered to be part of the customs territory of the Union.
3. Customs duties on imports and exports, and any charges having equivalent effect, shall be prohibited between the Union and the United Kingdom in respect of Northern Ireland. This prohibition shall also apply to customs duties of a fiscal nature.
4. Quantitative restrictions on imports and exports and all measures having equivalent effect shall be prohibited between the Union and the United Kingdom in respect of Northern Ireland.

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<sup>138</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).

5. The Union and the United Kingdom in respect of Northern Ireland shall not impose, directly or indirectly, on the products of the other party any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products. Furthermore, the Union and the United Kingdom in respect of Northern Ireland shall not impose on the products of the other party any internal taxation of such a nature as to afford indirect protection to other products.
6. Paragraph 4 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, or a category of goods, where and to the extent permitted by Union law. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Union and Northern Ireland.
7. For the purposes of the customs legislation and the provisions of Union law listed in Annex 2.2 to this Protocol, the United Kingdom customs authorities competent for the territory of Northern Ireland shall be considered as customs authorities within the meaning of point (1) of Article 5 of Regulation (EU) No 952/2013. By way of derogation from Section 7 of Chapter 2 of Title I of Regulation (EU) No 952/2013, customs controls as defined in point (3) of Article 5 of that Regulation shall be carried out jointly by the Union and the United Kingdom customs authorities competent for the territory of Northern Ireland. The Union and the United Kingdom shall determine the practical arrangements for carrying out such controls in accordance with paragraph 10.
8. The provisions of Union law on value added tax listed in Annex 2.3 to this Protocol concerning goods shall apply to and in the United Kingdom in respect of Northern Ireland.
9. The provisions of Union law on excise duties listed in Annex 2.4 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.
10. Specific arrangements for the proper implementation of this Article shall be determined by the Joint Committee, upon proposal from the Specialised Committee. Those specific arrangements may, as appropriate, include a mechanism for revenue collection and distribution.

*Article 5  
Agriculture and fisheries*

1. The provisions of Union law on sanitary and phytosanitary rules listed in Annex 2.5 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.
2. The provisions of Union law on the production and marketing of agricultural and fisheries products listed in Annex 2.6 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.

*Article 6  
Single electricity market*

The provisions of Union law governing wholesale electricity markets listed in Annex 2.7 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.

*Article 7*  
*Environment*

The provisions of Union law for environmental protection concerning the control of the import into, export out of, release into, or transport within the Union of substances or material, or plant or animal species, listed in Annex 2.8 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland.

*Article 8*  
*Other areas of North-South cooperation*

1. Consistent with the arrangements set out in Articles 4 to 7 of this Protocol, 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 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 building 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, including on recommendation from the Specialised Committee, make appropriate recommendations to the Union and the United Kingdom in this respect.

*Article 9*  
*State aid*

The provisions of Union law on aids granted by States listed in Annex 2.9 to this Protocol shall apply to the United Kingdom in respect of Northern Ireland. For the purposes of those provisions, "in respect of Northern Ireland" means that only measures that affect trade between the territory of Northern Ireland and the Union shall be considered as aid within the meaning of Article 107(1) TFEU.

**Chapter IV**  
**Institutional provisions**

*Article 10*  
*Specialised Committee*

1. The Specialised Committee on issues related to the island of Ireland established by Article 158 of the Withdrawal Agreement ("Specialised Committee") shall be composed of representatives from the Union and the United Kingdom.
2. The Specialised Committee shall
  - (a) facilitate the implementation and application of this Protocol;

- (b) examine proposals from the North-South Ministerial Council, and North-South Implementation bodies set up under the 1998 Agreement concerning the implementation and application of this Protocol;
- (c) discuss any point of relevance to this Protocol giving rise to a difficulty and raised by the Union or the United Kingdom;
- (d) make recommendations to the Joint Committee as regards the functioning of this Protocol.

*Article 11*  
*Supervision and enforcement*

1. As regards Chapter III, 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 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 in respect of and in the United Kingdom the same legal effects as those which they produce within the Union and its Member States.

**Chapter V**  
**General and final provisions**

*Article 12*  
*Common provisions*

1. The following provisions of the Withdrawal Agreement shall apply to this Protocol:
  - (a) Article 2, the first subparagraph of Article 4(1) and Article 4(2) and (3), Article 5(2) and (3) and Article 6;
  - (b) Articles 100 and 104, Article 105(1), Articles 111, 115, 116 and 117 in respect of activities of the Union pursuant to this Protocol;
  - (c) Part Six, without prejudice to Article 11 of this Protocol.

For the purposes of this Protocol, any reference to the United Kingdom in those provisions of the Withdrawal Agreement shall be read as referring to the United Kingdom or the United Kingdom in respect of Northern Ireland, as the case may be.

2. 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. Where this Protocol makes reference to a Union act, and where that act is amended or replaced after the entry into force of the Withdrawal Agreement, the reference to that act shall be read as referring to it as amended or replaced.

The Joint Committee shall periodically revise the relevant references in this Protocol upon proposal from the Specialised Committee set up under this Protocol.

4. By way of derogation from point (a) of paragraph 1 of this Article and from Article 6 of the Withdrawal Agreement, representatives or experts of the United Kingdom or experts designated by the United Kingdom may, upon invitation and on a case-by-case basis, exceptionally attend meetings or parts of 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>139</sup>, of Commission expert groups, of other similar entities, or 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 period of application of this Protocol 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 made applicable by this Protocol.

During such meetings or parts of meetings, the representatives or experts of the United Kingdom or experts designated by it 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).

5. 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.
6. The provisions of Union law on the protection of personal data referred to in Article 66 of the Withdrawal Agreement shall apply in respect of personal data processed in the United Kingdom on the basis of this Protocol.
7. 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 13 Safeguards*

1. If the application of this Protocol leads to serious economic, societal or environmental difficulties liable to persist, the Union or the United Kingdom may unilaterally take appropriate 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.

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<sup>139</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 L55, 28.2.2011, p. 13).

3. Safeguard and rebalancing measures taken in accordance with paragraphs 1 and 2 shall be governed by the procedures and dispute settlement arrangements set out in Annex 3 to this Protocol.

*Article 14*  
*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 of the United Kingdom in respect of Northern Ireland.

*Article 15*  
*Subsequent agreement*

Should a subsequent agreement between the Union and the United Kingdom which allows addressing the unique circumstances on the island of Ireland, avoiding a hard border and protecting the 1998 Agreement in all its dimensions, become applicable after the entry into force of the Withdrawal Agreement, this Protocol shall not apply or shall cease to apply, as the case may be, in whole or in part, from the date of entry into force of such subsequent agreement and in accordance with that agreement.

*Article 16*  
*Annexes*

Annexes 1 to 3 shall form an integral part of this Protocol.

## **Annexes**

Annex 1 in relation to protection against discrimination

Annex 2 in relation to the common regulatory area for ensuring the free movement of goods and protecting North-South cooperation

Annex 2.1 in relation to free movement of goods

Annex 2.2 in relation to customs controls of specific goods or for specific purposes

Annex 2.3 in relation to value added tax

Annex 2.4 in relation to excise duties

Annex 2.5 in relation to sanitary and phytosanitary rules

Annex 2.6 in relation to production and marketing of agricultural and fisheries products

Annex 2.7 in relation to wholesale electricity markets

Annex 2.8 in relation to environmental protection concerning the control of the import into, release into, or transport within the Union of substances or material, or plant or animal species

Annex 2.9 in relation to State aid

Annex 3 in relation to procedures and dispute settlement arrangements applicable to safeguard and rebalancing measures

### **Protocol relating to the Sovereign Base Areas in Cyprus**

Since the arrangements applicable to relations between the Union and the Sovereign Base Areas in Cyprus will continue to be defined within the context of the Republic of Cyprus' membership of the Union, appropriate arrangements have been determined to achieve, after the withdrawal of the United Kingdom from the Union, the objectives set out in Protocol 3 to the Act of Accession of the Republic of Cyprus to the Union<sup>140</sup>.

**[Placeholder for such mechanisms]**

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<sup>140</sup> 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 on the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, OJ L 236, 23.09.2003, p. 940-944.

## ANNEXES

## [Annex y]

*Provisions of Union law referred to in Article 37(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>141</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>142</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>143</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>144</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>145</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>146</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 deep-frozen semen of domestic animals of the bovine species<sup>147</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>148</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>149</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>150</sup>.

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<sup>141</sup> OJ 121, 29.7.1964, p. 1977.

<sup>142</sup> OJ L 46, 19.2.1991, p. 19.

<sup>143</sup> OJ L 192, 23.7.2010, p. 1.

<sup>144</sup> OJ L 343, 22.12.2009, p. 74.

<sup>145</sup> OJ L 268, 14.9.1992, p. 54.

<sup>146</sup> OJ L 302, 19.10.1989, p. 1.

<sup>147</sup> OJ L 194, 22.7.1988, p. 10.

<sup>148</sup> OJ L 224, 18.8.1990, p. 62.

<sup>149</sup> OJ L 328, 24.11.2006, p. 14.

<sup>150</sup> OJ L 178, 28.6.2013, p. 1.

**[Annex y+1]**  
*Euratom*

**[Annex y+2]**

*List of administrative cooperation procedures referred to in Article 93*

1. Enquiry procedures for transit, and in the context of export goods exiting the customs territory of the Union or of the United Kingdom relating to the application of customs legislation (Regulation (EU) No 952/2013).
2. 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).
3. Investigative and coordination actions in the area of customs including, where applicable, any subsequent legal proceedings until the related court decision becomes final, in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>151</sup>, Council Regulation (EC, Euratom) No 2988/95<sup>152</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>153</sup>, Council Regulation (EC) No 515/97<sup>154</sup>, including the exchange of information procedures and mechanisms applied regarding cash controls (Regulation (EC) No 1889/2005 of the European Parliament and of the Council<sup>155</sup>), drug precursors (Council Regulation (EC) No 111/2005<sup>156</sup>) and cultural goods (Council Regulation (EC) No 116/2009<sup>157</sup>).
4. Direct cooperation and exchange of information concerning export controls on dual-use items (Article 19 of Council Regulation (EC) 428/2009<sup>158</sup>).
5. 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 2016/1076 of the

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<sup>151</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>152</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>153</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>154</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 (OJ L 82, 22.3.1997, p. 1).

<sup>155</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 (OJ L 309, 25.11.2005, p. 9).

<sup>156</sup> Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ L 22, 26.1.2005, p. 1).

<sup>157</sup> Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (OJ L 39, 10.2.2009, p. 1).

<sup>158</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).

European Parliament and of the Council<sup>159</sup>, Article 55 of Annex VI to Council Decision 2013/755/EU<sup>160</sup> and equivalent provisions in preferential Agreements.

**[Annex y+3]**  
*Rules of Procedure*

**[Annex y+4]**

*List of Network and information systems and databases referred in Articles 46 and 49*

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<sup>159</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 (OJ L 185, 8.7.2016, p. 1).

<sup>160</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

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