



HM Government

**Explainer for the agreement on the withdrawal of
the United Kingdom of Great Britain and Northern
Ireland from the European Union**

14 November 2018

WITHDRAWAL AGREEMENT

1.1 Summary

1. The United Kingdom has now reached agreement in principle on the Withdrawal Agreement. The terms of the UK's departure on 29 March 2019 have been established, providing a smooth exit and orderly transition to the future relationship for people, businesses and organisations across our country.
2. The draft Withdrawal Agreement published on 14 November 2018 should be considered alongside the outline Political Declaration on our future relationship. Negotiations on our future relationship are ongoing and the Withdrawal Agreement will not be signed without an agreed Political Declaration on our future relationship on the basis that nothing is agreed until everything is agreed.
3. The Withdrawal Agreement provides for:
 - a. **a deal on citizens' rights** that protects the rights of EU citizens in the UK and UK nationals in the EU, ensuring they can continue contributing to their communities and live their lives broadly as now;
 - b. **separation provisions** that wind down certain arrangements (for example cooperation on civil court cases still ongoing at the end of the implementation period) under the current EU legal order to ensure an orderly withdrawal and smooth transition to the future relationship, noting that the majority of these provisions could be superseded by the agreement on the future relationship;
 - c. **a time-limited implementation period** that provides certainty to businesses and individuals and ensures they only have to adjust to one set of changes in line with the future relationship with the EU;
 - d. **arrangements on the financial settlement** that represent a fair settlement of the UK's rights and obligations as a departing Member State, in accordance with its legal commitments and in the spirit of the UK's continuing partnership with the EU;
 - e. **governance arrangements** that provide legal certainty and clarity to citizens, businesses and organisations and respect the autonomy and integrity of both the UK's and the EU's legal orders;

- f. **the unique circumstances in Northern Ireland**, including the continuation of the Common Travel Area arrangements, the ongoing protection of rights of individuals in Northern Ireland, and guarantees that, even in the unlikely event that our future relationship with the EU is not in place by the end of the implementation period, there will be no hard border between Northern Ireland and Ireland or a splitting of the UK customs territory.
- g. maintaining the UK's international commitments in respect of the **Sovereign Base Areas (SBAs)**, protecting the interests of Cypriots living and working in the SBAs and ensuring the continued effective operation of the SBAs for military purposes; and
- h. a Protocol on **Gibraltar** which will form part of a wider package of agreements that address issues of importance to citizens and businesses in Spain and Gibraltar and reflect the parties' desire to work together in support of the shared prosperity and security of the area.

4. This document is intended as a guide to support understanding of the legal drafting of the Withdrawal Agreement as published on 14 November 2018 following a format of:

- a. Preamble
- b. Part One: Common Provisions
- c. Part Two: Citizens' Rights
- d. Part Three: Separation Provisions
- e. Part Four: Implementation (Transition) Period
- f. Part Five: Financial Provisions
- g. Part Six: Institutional and Final Provisions
- h. Protocol: Northern Ireland
- i. Protocol: Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus
- j. Protocol: Gibraltar
- k. Annexes to the Withdrawal Agreement

1.2 Negotiations on the Withdrawal Agreement

5. The process for the UK's withdrawal from the EU and European Atomic Energy Community (Euratom) is under Article 50 of the Treaty on European Union. This article sets out the requirements for any Member State to withdraw from the EU, in line with its own constitutional requirements, and the timelines for the

withdrawal process.¹ Article 50 states that the Withdrawal Agreement will set out the arrangements for a Member State leaving the EU, taking account of the Political Declaration on the future relationship.

6. Following Parliament's approval of the European Union (Notification of Withdrawal) Act 2017, the Prime Minister wrote to the European Council President, Donald Tusk, on 29 March 2017 to notify him of the UK's intention to leave the EU. Since then, the UK and the EU have undertaken detailed technical negotiations to agree the terms of the UK's exit.

7. On 8 December 2017, the UK and the EU published a Joint Report on progress in the first phase of the negotiations². This set out the agreement reached in principle across the following three areas under consideration in that phase of negotiations: protecting the rights of EU citizens in the UK and UK nationals in the EU; the framework for addressing the unique circumstances in Northern Ireland; and the financial settlement. Alongside this, the Joint Report set out the initial progress across discussions on "other separation issues".

8. Following the Joint Report, the UK and the EU worked to transform its principles into legal text. On 19 March 2018, the UK and the EU published draft elements of a Withdrawal Agreement setting out agreed legal text for the time-limited implementation period, citizens' rights and the financial settlement, as well as a significant number of other articles³.

9. On 19 June 2018, the UK and the EU published a Joint Statement setting out the further progress made in negotiations since March across the "other separation issues".⁴ This publication included revised legal text where agreement had been reached.

10. Negotiations across the Withdrawal Agreement have continued and the draft Withdrawal Agreement published on 14 November 2018 reflects both new areas of agreement and technical legal revisions to the joint text previously published.

11. Similar agreements are being discussed with the European Economic Area/ European Free Trade Agreement States (Norway, Iceland and Liechtenstein) and Switzerland on citizens' rights and a small number of separation issues. As with the Withdrawal Agreement, this will ensure that our respective nationals will be able to

¹ [Treaty on European Union](#)

² [Joint report on progress during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU](#), 8 December 2017

³ [Draft Withdrawal Agreement](#), 19 March 2018

⁴ [Joint statement on Withdrawal Agreement](#), 19 June 2018

carry on living their lives broadly as they do now and ensure a smooth transition to our future relationship with these countries.

1.3 Implementing the Withdrawal Agreement

12. Section 13 of the EU (Withdrawal) Act 2018 provides that the House of Commons must vote to approve the Withdrawal Agreement and Political Declaration on the future relationship before the Withdrawal Agreement can be ratified and then enter into force. They must also be subject to a ‘take note’ motion in the Lords.

13. The Withdrawal Agreement will require domestic legislation to implement it in the UK. In November 2017, the Government announced its intention to introduce the EU (Withdrawal Agreement) Bill. This will be the primary vehicle for the implementation of the Withdrawal Agreement. The White Paper published in July 2018 on “Legislating for the Withdrawal Agreement between the UK and the EU” described how legislation would be taken forward in relation to those aspects of the Withdrawal Agreement that had been agreed in principle: citizens’ rights; the implementation period; and the financial settlement.⁵ The Government will continue to follow the established practices and conventions to seek the consent of the devolved legislatures where it is relevant to do so.

14. The Bill will only be introduced once Parliament has approved the final deal under the terms of the EU (Withdrawal) Act 2018. The Bill will be a necessary step in implementing the referendum result, the outcome of the UK Government’s negotiations with the EU and Parliament’s approval of the final deal.

15. The Bill must pass before the UK leaves the EU on 29 March 2019 in order for the Withdrawal Agreement to have domestic legal effect and for the Government to ratify the Withdrawal Agreement. The UK’s future relationship with the EU, which will not be finalised until after the UK’s exit from the EU, will be implemented as necessary in separate legislation.

16. The Withdrawal Agreement will also be subject to the provisions of the Constitutional Reform and Governance Act (CRaG) 2010. Following this, the treaty will be ratified, and can enter into force.

17. In line with established constitutional arrangements, the UK Government has negotiated the Withdrawal Agreement on behalf of the whole of the UK including the devolved administrations, as well as the Crown Dependencies, Gibraltar and the

⁵ [Legislating for the Withdrawal Agreement between the United Kingdom and the European Union](#), 24 July 2018

other Overseas Territories and Sovereign Base Areas. The Crown Dependencies and Overseas Territories will need to pass their own legislation, if required, to ensure that the Withdrawal Agreement is fully implemented in their jurisdictions.

PREAMBLE TO THE WITHDRAWAL AGREEMENT

18. The recitals in this section of the Withdrawal Agreement will be used to support legal interpretation of the Withdrawal Agreement, describing some of the key points for consideration in the text.

PART ONE: COMMON PROVISIONS (*Articles 1-8*)

19. Part one of the Withdrawal Agreement establishes definitions and the framework provisions for the entire agreement.

What is covered in part one:

20. The purpose of the Withdrawal Agreement is to lay out the arrangements for the withdrawal of the UK from the EU and Euratom. This part of the Withdrawal Agreement confirms that, without prejudice to what is negotiated on our future relationship, the UK will no longer have access to any EU databases after the end of the implementation period unless provision is made for specific exceptions elsewhere in the agreement in order to facilitate an orderly exit.

21. All references in the Withdrawal Agreement to Union law refer to European Union law as applicable on the last day of the implementation period. There are exceptions to this, for example aspects of social security coordination under part two (Citizens Rights), references to Union law in parts four (Implementation Period, which will have expired at this point) and five (Financial Settlement, where aspects apply beyond the end of the Implementation Period), and certain aspects of the Northern Ireland Protocol. Should Union law referred to in the Withdrawal Agreement change after the end of the implementation period, those amendments would not apply to the UK except in those areas, although the UK's domestic courts and authorities will be required to have due regard to the case law of the Court of Justice of the European Union (CJEU) where relevant.

22. Part one also sets out how the Withdrawal Agreement should be interpreted and enforced. This will provide Parliament and the courts with clarity on how to interpret and implement the provisions in the Withdrawal Agreement, and ensure that this is done in a way which is consistent with how it is interpreted and applied within the EU.

23. Part one further makes clear that the provisions of the Withdrawal Agreement and the provisions of Union law made applicable by the Withdrawal Agreement produce the same legal effects in the UK as those which they produce within the EU and its Member States. These legal effects include the ability of the Courts to disapply any incompatible domestic legislation, direct effect (where the Union law conditions for direct effect are made out) and the availability of remedies (including Francovich damages).

24. Part one also makes provision about the interpretation and application of the Withdrawal Agreement. Under this provision, general principles of Union law, including those reflected in the EU Charter of Fundamental Rights, would be used to interpret Union law applied by the Withdrawal Agreement. In addition, where Union law is applied by the Withdrawal Agreement, UK courts must interpret it in conformity with relevant case law handed down by the CJEU before the end of the implementation period and pay due regard to relevant CJEU case law handed down after the end of the implementation period.

25. Part one binds the UK and the EU to a duty of good faith, meaning that neither side should act in a way to undermine the agreement, and the UK and the EU should work to support each other in carrying out the tasks set out and flowing from the Withdrawal Agreement.

PART TWO: CITIZENS' RIGHTS (*articles 9-39*)

Summary

26. The Government has been clear that its first priority as part of securing a smooth and orderly exit from the EU was to provide certainty for EU citizens living in the UK, and UK nationals living in other EU countries. EU citizens are valued members of their communities and play an integral part in the economic, cultural and social fabric of the UK, as do UK nationals living in the EU, who are equally valued by their host countries and communities.

27. Individuals require assurance that their rights will be protected and the Withdrawal Agreement provides that certainty. Those falling within scope of the Withdrawal Agreement will have broadly the same entitlements to work, study and access public services and benefits as now, in as far as these entitlements have derived from UK membership of the EU.

What is covered in part two:

Eligibility and scope of Citizens' Rights

28. Part two provides that all UK nationals lawfully residing in a Member State at the end of the implementation period will be able to stay, as will all EU citizens lawfully residing in the UK. Their family members resident in the host state by 31 December 2020 will also be covered by the rights set out in the Withdrawal Agreement. Individuals in scope of the Agreement can be joined by close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) who live in a different country at any point in the future, if the relationship existed on 31 December 2020 and still exists when the person wishes to come to the UK. Any child born to an individual in scope is also protected by the Agreement if the individual has custody of the child. The Withdrawal Agreement also protects the rights of those citizens who reside in one state and work in another ('frontier workers').

Rights related to residence

29. UK nationals who have been living in a Member State of the EU continuously and lawfully for five years at the end of the implementation period will have the right to reside permanently in that Member State. Equally, EU citizens who have been living in the UK continuously and lawfully for five years at the end of the implementation period will have the right to reside permanently in the UK. As part of the future relationship with the EU, the UK will also seek to secure onward

movement opportunities for UK nationals in the EU who are covered by the citizens' rights agreement. Some of these UK nationals have chosen to make their lives in the EU, and this should be respected in the opportunities available to them if they decide to change their Member State of residence.

30. Those who have not yet resided continuously and lawfully for five years in their host state by the end of the implementation period will also be able to stay until they have reached the five year threshold, at which point they will have the right to reside permanently. The Withdrawal Agreement enables the host state to restrict these rights if the individual is a serious or persistent criminal, or if they seek to abuse or defraud the system.

31. In the UK, EU citizens and their family members can apply for a residence status through the EU Settlement Scheme. Further information on the EU Settlement Scheme can be found on [gov.uk](https://www.gov.uk).⁶ Member States have a choice whether to require UK nationals and their family members to apply for a residence status or not.

32. As set out in the Withdrawal Agreement and in line with the EU Settlement Scheme, any application process adopted by EU Member States for UK nationals must be short, simple and user-friendly. The residence status shall be issued free of charge, or for a charge not exceeding that imposed on citizens or nationals for the issuing of similar documents, for example a national identity card or passport. The right to reside permanently in the host state can only be lost through an absence from the country of more than five years unless it is restricted due to a person's conduct.

Rights of workers and the self-employed

33. Workers and self-employed persons, including frontier workers, will be guaranteed broadly the same rights as they currently enjoy. They have a right to not be discriminated against due to nationality, and the right to equal treatment with host state nationals. For example, equal treatment in respect of the right to pursue economic activity, the right to employment assistance, conditions of employment, the right to tax and social advantages, collective rights, access to housing and the right for their children to receive an education.

⁶ [Settled and pre-settled status for EU citizens and their families](#), GOV.UK

Equal treatment

34. The Withdrawal Agreement protects the existing rights to equal treatment and non-discrimination for EU citizens residing or working in the UK, UK nationals residing or working in the EU, and their family members. They will have broadly the same entitlements to work, study and access public services and benefits as now where these entitlements have derived from UK membership of the EU. These entitlements for EU citizens will be subject to any future domestic policy changes which apply to UK nationals.

Mutual recognition of professional qualifications

35. The UK and the EU have agreed that EU professionals resident or frontier working in the UK, or vice versa, will continue to have their professional qualifications recognised, where they obtained or applied for a recognition decision before the end of the implementation period.

36. This will cover the European Professional Card, qualifications recognised under the Professional Qualifications directive for the purpose of establishment (but not for the temporary and occasional provision of services), lawyers practising under host state title, approved statutory auditors, and persons engaged in the trade and distribution of toxic products.

Coordination of social security systems

37. EU Regulations on social security coordination will continue to apply across the whole of the UK at the end of the implementation period for individuals in scope of the Withdrawal Agreement. This will ensure that citizens who have moved between the UK and the EU before the end of the implementation period are not disadvantaged in their access to pensions, benefits and other forms of social security, including healthcare cover. The Withdrawal Agreement also provides protections in a number of other circumstances, such as where a UK national, although not living in the EU at the end of the implementation period, has paid social security contributions in a Member State in the past. The rights that flow from those contributions such as benefits, pension and reciprocal healthcare rights will also be protected.

38. Member States will be required to take into account contributions paid into their respective social security systems by individuals within scope of the Withdrawal Agreement. As now, the amount of State Pension to which those individuals will be entitled as a result of the contributions will be determined according to each state's social security legislation.

39. Persons who are in scope of the Withdrawal Agreement for full social security coordination purposes will also continue to benefit from the coordination rules, for as long as they remain within the scope of that section. This will ensure that the worker (and their employer) only pays into one social security system at a time, and that the right to aggregate both contributions paid, and periods of insured residence completed, for the purposes of meeting different states' benefit entitlement conditions continues. This includes all contributions made both in the UK and the EU before and after the implementation period, and the rules will also protect the rights that flow from such contributions.

40. Where the UK, or a Member State, is responsible for the healthcare of those within scope of the social security coordination part of the Withdrawal Agreement, such individuals will be entitled to reciprocal healthcare cover from their competent country.

41. The Withdrawal Agreement will also protect the rights of individuals who are in a cross-border situation, (for example a UK national who is in an EU Member State for a holiday or for the duration of a course of study) at the end of the implementation period, and who are entitled to a UK European Health Insurance Card (EHIC), to continue to benefit from that scheme for as long as that cross-border situation in the state they are in continues.

42. The Withdrawal Agreement also protects the rights of people visiting the UK or the EU for planned medical treatment, where authorisation was requested before the end of the implementation period, so they are able to commence or complete their treatment. This guarantees that patients will be able to complete a course of treatment and provides the certainty that patients need during a vulnerable time in their lives.

Protections for rights and monitoring authority

43. The Citizens' Rights agreement will be faithfully implemented in both the UK and the EU, providing additional assurance for EU citizens living in the UK and UK nationals living in EU Member States.

44. In the UK, the Citizens' Rights part of the Withdrawal Agreement will be fully incorporated into UK law. UK courts, when interpreting terms and concepts of EU law in the Citizens' Rights part of the agreement, will pay due regard to future CJEU case law. Having had due regard to whether relevant case law exists, UK courts can choose to ask the CJEU for a ruling on a question of EU law. The CJEU's ruling on that question will have the same legal effect as in Member States, but it will be up to

UK courts to make the final judgment in the individual case before it. This reference procedure is time-limited: UK courts will be able to refer questions that relate to residence status to the CJEU for eight years from exit day (29 March 2019), because the EU Settlement Scheme will be open fully from this point. They will be able to refer questions that relate to other aspects of the Citizens' Rights part of the Withdrawal Agreement for eight years from the end of the implementation period, as those other aspects will only apply from the end of the implementation period.

45. To oversee the implementation and application of the Citizens' Rights part of the Withdrawal Agreement in the UK, an independent monitoring authority will be established. This authority will be fully capable of monitoring the domestic interpretation and application of the Citizens' Rights part of the Withdrawal Agreement. It will be able to receive complaints and conduct inquiries concerning any alleged breaches of the Withdrawal Agreement by UK public authorities.

46. The independent monitoring authority will also be able to bring legal action in the UK, with a view to seeking an adequate remedy if it deems that the Citizens' Rights part of the Withdrawal Agreement is not being implemented or applied correctly.

47. In the EU, the European Commission will perform the equivalent role of monitoring compliance in Member States. This arrangement will ensure the faithful implementation of the Citizens' Rights agreement in both the UK and the EU.

PART THREE: SEPARATION PROVISIONS (*articles 40-125*)

Summary

48. At the end of the implementation period, it will be important that the application of the EU legal order in the UK is brought to an orderly conclusion, particularly in respect of ongoing processes and arrangements. Part three of the Withdrawal Agreement provides the technical basis for the winding down of those arrangements to ensure an orderly withdrawal.

49. These arrangements aim to provide legal certainty, although the future economic and security relationship between the UK and the EU could supersede the separation provisions agreed in many cases. This may then require new substantive arrangements to be agreed and put in place between the UK and the EU to ensure a smooth and orderly transition from the implementation period to the future relationship. The arrangements set out in this part are without prejudice to negotiations on our future relationship.

50. This part of the Withdrawal Agreement covers arrangements for:

- a. Title I: Goods placed on the market;
- b. Title II: Ongoing customs procedures;
- c. Title III: Ongoing value added tax and excise duty matters;
- d. Title IV: Intellectual Property;
- e. Title V: Ongoing police and judicial cooperation in criminal matters;
- f. Title VI: Ongoing judicial cooperation in civil and commercial matters;
- g. Title VII: Data and information processed or obtained before the end of the transition period or on the basis of this agreement;
- h. Title VIII: Ongoing public procurement and similar procedures;
- i. Title IX: Euratom related issues;
- j. Title X: Union judicial and administrative procedures;
- k. Title XI: Administrative cooperation procedures between Member States and the United Kingdom;
- l. Title XII: Privileges and immunities; and
- m. Title XIII: Other issues relating to the functioning of the institutions, bodies, offices and agencies of the Union.

What is covered in part three:

TITLE I: GOODS PLACED ON THE MARKET (*articles 40-46*)

51. The title sets out the arrangements for all goods (including agricultural products) at the end of the implementation period. Goods that are placed on the UK or the EU market under Union law before the end of the implementation period may continue to circulate freely between the UK and the EU. Where an entity (i.e. a business or other organisation which supplies goods, works or services) uses these provisions they shall bear the burden of proof to demonstrate that the good was placed on the market before the end of the implementation period. These goods will not require product modifications or relabelling and any compliance activity already undertaken for these goods, such as conformity assessments, will continue to be recognised in both the UK and EU.

52. There are additional procedures required for live animals, germinal products and animal products which will have to comply with EU third country import rules before being exported to the EU from the UK. For example, a UK exporter of an animal product to the EU will need to have an Export Health Certificate (EHC) alongside the consignment and go through a Border Inspection Post. An Official Veterinarian or authorised signatory will need to sign the EHC following inspection of the consignment.

53. The title sets out the measures which will enable continued cooperation between the UK and the EU authorities in relation to the goods that benefit from the title. In addition, the title also requires the UK authorities to transfer files or documents related to certain ongoing product assessments to an EU Member State Authority. This applies to assessments of medicines and chemicals being carried out by the Medicines and Healthcare products Regulatory Agency (MHRA), the Veterinary Medicines Directorate (VMD) and the Health and Safety Executive (HSE).

54. The title provides for the transfer of information related to testing between relevant testing bodies in the UK and the EU. For example, if a manufacturer chooses to apply for a new certificate in the EU when they already have a certificate in the UK, the title provides for the transfer of information related to tests carried out before the end of the implementation period by the UK testing body to the EU testing body.

TITLE II: ONGOING CUSTOMS PROCEDURES (*articles 47-50*)

55. Goods that are under a customs movement that begins before the end of the implementation period and finishes afterwards will continue to be treated as though

they are under EU law. This means that these goods will not have to re-start their customs journeys or be subject to additional procedures.

56. Where EU goods are in transit between the UK and EU Member States at the end of the implementation period they will retain EU status. These goods must have proof of this status, and the title sets out the evidence required. To support these ongoing customs procedures, declarations lodged at a customs office in the EU before the end of the implementation period will remain valid afterwards in both the UK and the EU.

57. Non-EU goods which have been placed in temporary storage, or under special procedures, in the UK before the end of the implementation period and which are discharged up to 12 months afterwards will continue to be subject to Union Customs Code rules. Further technical information on debts that occur as a result of the discharge of special procedures or ending of temporary storage is set out in Annex III to the Withdrawal Agreement.

58. Under this title, the UK will continue to have access to a number of EU networks and information databases to allow the UK to fulfil the obligations in the Withdrawal Agreement. These systems and timelines for access are listed in Annex IV.

TITLE III: ONGOING VALUE ADDED TAX AND EXCISE DUTY MATTERS (*articles 51-53*)

59. VAT and excise treatments for goods that are midway through an intra-EU customs movement that begins before the end of the implementation period and finishes afterwards will continue to be treated as though they are under EU law.

60. Goods moving from the UK to an EU Member State, and vice versa, which commenced their journey before the end of the implementation period, will continue to be treated under the rules on intra-EU movements of goods set out in the VAT Directive and the EU rules on intra-EU movements of excise goods.

61. The UK will continue to have access to a number of EU networks including information databases to allow the UK to share information on VAT and excise and to fulfil the obligations listed in the Withdrawal Agreement. These systems and timelines for access are listed in Annex IV.

TITLE IV: INTELLECTUAL PROPERTY AND GEOGRAPHICAL INDICATIONS ***(articles 54-61)***

62. EU trade marks, registered and unregistered Community designs and Community plant variety rights currently give protection throughout the EU with a single right. These rights will cease to be valid in the UK after the end of the implementation period. The UK will therefore grant national rights in place of existing EU rights so that right holders do not have any loss of rights or gap in protection in the UK. The Withdrawal Agreement also gives continued protection for existing database rights and guarantees continuity of process in applications for patent extensions. Finally, as regards intellectual property rights, goods put on the market before the end of the implementation period can continue to circulate freely between the UK and the EU.

63. UK trade marks, registered design and plant variety rights will be registered automatically, and for free, and this re-registration will not place any administrative burden on right holders. To allow this, the EU will share data concerning existing EU-administered unitary rights. In addition, all existing unregistered Community design rights will continue to be enforceable in the UK as separate UK rights offering the same level of protection as the EU unregistered right.

64. Applications for EU trade marks, designs or plant variety rights that are still pending at the end of the implementation period will not automatically give rise to a new UK right. However, the owner of a pending application will still be able to apply to register an identical UK trade mark, design or plant variety right, and where they do so within a set period of time after the end of the implementation period, their application will be considered to have the same filing date and priority date as the EU application, ensuring applicants do not lose out. The set period of time for trade marks and designs is nine months; for plant variety rights, six months.

65. Where right holders have obtained EU trade marks or registered Community designs through the Hague and Madrid systems, the UK will take steps to ensure that those marks and designs also continue to be protected in the UK.

66. Where a database qualified for protection in the UK before the end of the implementation period, it will continue to be protected in the UK after its end, and rights owned by UK nationals that qualified for protection in EU Member States before exit will also continue to be protected after the end of the implementation period.

67. The title also confirms that where the owners of a medicine or agrochemical patent have applied to the UK authorities for a period of additional protection before

the end of the implementation period, that application will be considered in line with the current procedure and that the level of protection provided will be the same as prescribed under the EU regulations.

68. With respect to Geographical Indications (GIs), this title sets out arrangements which mean that existing EU GIs will remain protected in the UK until the future economic relationship comes into effect and supersedes those arrangements. Existing UK GIs will continue to be protected by the current EU regime.

TITLE V: ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS (*articles 62-65*)

69. The title sets out how ongoing police cooperation and judicial cooperation in criminal matters would be brought to a close at the end of the implementation period to provide clarity for law enforcement authorities and the judiciary. For example, a request for evidence may be outstanding under a European Investigation Order or an individual may have been arrested, awaiting surrender under a European Arrest Warrant. These arrangements are without prejudice to what may be agreed in the future relationship.

70. The title specifies a 'trigger point' for each procedure listed. If this point is reached before the end of the implementation period, then the procedure will continue to completion. For the most part, this 'trigger point' is receipt of a request for information or assistance whereas some measures have specific 'trigger points'. For example, the title makes clear that a European Arrest Warrant will be seen to completion where a person has been arrested before the end of the implementation period.

71. To further facilitate winding down, the title specifies that the UK should have time-limited access to certain EU communications networks, information systems and databases after the end of the implementation period.

72. The title provides clarity on the continued application of the two EU Directives on procedural rights in criminal proceedings in which the UK currently participates (the right to interpretation and translation in criminal proceedings and the right to information in criminal proceedings). These Directives will continue to apply to ongoing European Arrest Warrant procedures being wound down under the title.

TITLE VI: ONGOING JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS (*articles 66-69*)

73. The title provides for the continuation of cooperation on cross-border civil and commercial proceedings underway at the end of the implementation period.

74. The rules on applicable law in contractual obligations will continue to apply to contracts entered into before the end of the implementation period. In respect of non-contractual obligations, EU rules on applicable law will continue to apply if the event giving rise to damage occurred before the end of the implementation period. EU rules on jurisdiction will apply to cases commenced before the end of the implementation period and related proceedings. This applies to proceedings concerning civil and commercial matters including Community intellectual property rights, data protection and posting of workers, family matters and maintenance.

75. The rules on recognition and enforcement of judgments will apply to cross-border civil and commercial, family and maintenance cases that are commenced before the end of the implementation period and court settlements and authentic instruments finalised before that point.

76. EU rules on insolvency proceedings will apply to main proceedings, secondary proceedings and subsidiary actions where the relevant main proceedings are started before the end of the implementation period.

77. Where applications and requests for information in cross-border parental responsibility and maintenance cases are received before the end of the implementation period, cooperation between the relevant authorities will continue.

78. EU rules on service of documents will apply to legal documents received for service before the end of the implementation period, even if service actually takes place after that point. Similarly, EU rules on the taking of evidence will apply to requests received even if the evidence is not actually taken until afterwards. Rules governing the European Judicial Network will also continue to apply to requests for information received before the end of the implementation period.

79. The title clarifies arrangements in relation to recognition of protection measures in civil matters, other mechanisms such as the EU small claims procedure, legal aid, mediation in civil disputes and on arrangements for compensation for victims of crime.

TITLE VII: DATA AND INFORMATION PROCESSED OR OBTAINED BEFORE THE END OF THE TRANSITION PERIOD, OR ON THE BASIS OF THIS AGREEMENT (articles 70-74)

80. The UK and the EU have exchanged data and information for a range of purposes. This includes personal data, data subject to specific rules, and classified information. It is important that data and information exchanged between the UK and the EU before the end of the implementation period or processed on the basis of the Withdrawal Agreement (the “stock” of data), is protected appropriately after the UK’s withdrawal from the EU. This title of the Withdrawal Agreement sets out these protections.

81. The “stock” of personal data will continue to be protected to high standards. During the implementation period, EU law will continue to apply. The EU has an established mechanism to facilitate the free flow of personal data to countries outside the EU. The European Commission can make “Adequacy Decisions” that find that a third country provides an adequate level of protection for personal data. The UK is seeking Adequacy Decisions to allow for the continued free flow of personal data from the EU to the UK as part of its future relationship with the EU. The outline Political Declaration on the future relationship published alongside the draft Withdrawal Agreement sets out that the EU will begin its assessment of the UK with a view to adopting Adequacy Decisions by the end of the implementation period. In the same timeframe, the United Kingdom will take steps to ensure comparable facilitation of personal data flows to the Union.

82. EU law will continue to apply to the “stock” of personal data until Adequacy Decisions have been granted, after which time UK domestic rules on personal data protection will apply. In the unlikely event the UK subsequently lost those Adequacy Decisions, the UK would apply data protection standards which are “essentially equivalent” to those in the EU and the “stock” of personal data would be held in accordance with UK domestic law.

83. UK authorities, official bodies and certain contracting entities will continue to apply specific and sectoral provisions in Union law (confidential treatment, restriction of use, storage limitation and requirement to erase) on non-personal data and information received before the end of the implementation period, or obtained on the basis of the Withdrawal Agreement.

84. The EU will ensure that UK data and information transferred to the EU before the end of the implementation period, or under the provisions of the Withdrawal Agreement, is not treated differently on the sole grounds that the UK is no longer a

Member State. As such, UK data and information will continue to be protected to high standards.

85. The UK and the EU will ensure that UK and EU classified information held by either the UK or the EU at the end of the implementation period or obtained under the provisions of the Withdrawal Agreement will continue to be protected in accordance with the provisions of Union law. The UK will continue to comply with obligations under Union law on industrial security in relation to classified contracts being tendered before the end of the implementation period. The UK must continue to abide by the current conditions of use for EU approved cryptographic products and ensure that certain EU approved cryptographic products in the UK are not transferred to a third country.

TITLE VIII: ONGOING PUBLIC PROCUREMENT AND SIMILAR PROCEDURES (articles 75-78)

86. EU procurement rules, which are currently implemented in domestic regulations, will continue to apply to public procurement and similar procedures which are ongoing at the end of the implementation period. The rules cover the procedures for the award of public contracts for works, services and supplies, utilities contracts, concessions contracts and non-exempted defence and security contracts above the relevant EU financial threshold values.

87. The title outlines which rules will continue to apply, confirms that particular types of procurements are covered and defines when a procurement procedure is ongoing. The Withdrawal Agreement also contains a commitment by the UK and the EU to continue applying the non-discrimination principle, which prohibits discrimination against suppliers on the grounds of nationality.

88. The current EU review and remedies rules will also continue to apply to breaches of the procurement rules in respect of ongoing procurement procedures.

89. The UK procuring authorities will continue to use the EU's online certification database for up to nine months after the end of the implementation period for ongoing procurement procedures.

TITLE IX: EURATOM RELATED ISSUES (articles 79-85)

90. This title resolves separation issues related to the UK's withdrawal from the Treaty of the European Atomic Energy Community ('Euratom') at the same time as the UK's withdrawal from the EU. It clarifies the UK's responsibilities in relation to certain types of nuclear materials and radioactive waste after exit, makes provision

in respect of the ownership of special fissile material located in the UK, and provides for the transfer of specified Euratom equipment and responsibilities to the UK at the end of the implementation period.

91. At the end of the implementation period, the UK will have sole responsibility for ensuring that all nuclear materials that were covered by the Euratom Treaty, and are present in the UK, are handled in accordance with the UK's obligations under relevant international treaties and conventions. The UK will also be responsible for ensuring that, where Euratom has specific obligations in relation to nuclear equipment, material or other nuclear items present in the UK under agreements that Euratom has with third countries or international organisations, the UK will ensure the obligation continues to be fulfilled.

92. The title also confirms that the UK will implement a nuclear safeguards regime that offers equivalent coverage and effectiveness to that currently provided in the UK by Euratom. After the implementation period has ended the UK will retain ultimate responsibility for spent fuel and radioactive waste that was generated in the UK but is now being held in another Member State.

93. This title clarifies the ownership of special fissile material, such as highly enriched uranium and plutonium, located in the UK at the end of the implementation period. It sets out certain residual rights that Euratom will have where such materials are owned by a person or undertaking based in an EU Member State.

94. The agreement confirms that at the end of the implementation period Euratom will transfer ownership of its equipment and other property relating to the provision of safeguards. This will become the property of the UK. Details of this are set out in Annex V.

TITLE X: UNION JUDICIAL AND ADMINISTRATIVE PROCEDURES (*articles 86-97*)

CHAPTER 1: JUDICIAL PROCEDURES (*articles 86-91*)

95. This chapter sets out how the UK's involvement in the EU's judicial procedures should be wound down and the rights of the UK to participate in CJEU cases after the end of the implementation period.

96. Cases pending before the CJEU at the end of the implementation period, brought by or against the UK, or referred by a UK court, will be able to continue to a final resolution providing legal certainty for individuals and businesses involved in or affected by these cases. In this context, a 'pending case' is a case that is registered

at the CJEU before the end of the implementation period. The UK will be able to continue any proceedings it has before the CJEU seeking to challenge the validity of EU acts or measures.

97. The Withdrawal Agreement allows for the European Commission to bring infraction cases against the UK for up to four years after the end of the implementation period for failures to comply with EU law prior to the end of the implementation period. In addition, where an administration decision has been made after the end of the implementation period which requires UK action and this is not taken, then the European Commission may bring that matter before the CJEU for up to four years following the relevant decision. Appropriate arrangements are also made for the UK to maintain intervention rights in direct actions and to participate in preliminary reference proceedings before the CJEU.

98. UK qualified lawyers will be able to continue to represent clients in all cases pending before the CJEU at the end of the implementation period until final resolution of that case. They will also be able to act wherever the UK is permitted to intervene or participate in CJEU proceedings. The normal rules of the CJEU will apply to any proceedings caught by the title, and resulting decisions from the CJEU will be binding and enforceable in the UK.

CHAPTER 2: ADMINISTRATIVE PROCEDURES (*articles 92-97*)

99. This chapter explains how EU administrative procedures, such as competition or state aid, which are ongoing at the end of the implementation period will be dealt with; which procedures can be started after the end of the implementation period in relation to facts that occurred before its end; and the applicable procedural rules and enforceability of resultant decisions.

100. The chapter provides arrangements for the continuation of administrative procedures that are ongoing at EU level at the end of the implementation period, and clarity on the cut-off point at which different types of procedures will be considered ongoing. It also sets out how the UK will be notified of ongoing procedures.

101. For up to four years from the end of the implementation period, the EU will be able to bring a case against the UK on facts arising before the end of the implementation period but which may come to light after the end of the implementation period that relate to alleged illegal state aid and investigations by the European Anti-Fraud Office (OLAF). The EU will also be able to bring a case in relation to certain customs debts arising after the end of the implementation period.

102. EU decisions adopted before the end of the implementation period, or adopted in the procedures referred to in this chapter, will be binding in the UK and on the UK, or on an individual or business, as appropriate. EU decisions can be appealed in the usual way and will be reviewed exclusively by the CJEU. UK lawyers will have the same rights as lawyers in EU Member States to represent their clients in these administrative procedures and the CJEU where it reviews decisions made in the procedures. Similarly, UK nationals authorised to represent their clients before the European Union Intellectual Property Office will be able to continue to do so in procedures that started before the end of the implementation period.

103. The chapter sets out the technical arrangements for completion of ongoing examinations before the Community Plant Variety Office, and arrangements for the orderly winding down of UK involvement in certain climate schemes where compliance deadlines extend beyond the end of the implementation period.

TITLE XI: ADMINISTRATIVE COOPERATION PROCEDURES BETWEEN MEMBER STATES AND THE UNITED KINGDOM (*articles 98-100*)

104. This title allows for ongoing administrative cooperation on tax and customs matters, including access to the EU systems involved, after the end of the implementation period. It includes provisions for sharing information on transactions that occurred before the end of the implementation period or that are covered by Titles II and III on Ongoing Customs Procedures and Ongoing Value Added Tax and Excise Duty Matters.

105. The UK and other Member States may continue to share information and undertake administrative cooperation, for a period of three years, for customs movements that took place before the end of the implementation period without prejudice to our future arrangements. The Withdrawal Agreement also sets out arrangements for the sharing of information and administrative cooperation between the UK and other Member States, for a period of four years, in respect of VAT transactions and excise movements that took place before the end of the implementation period.

106. The UK and the EU will continue to cooperate on customs debts, tax and duty debts that become due before the end of the implementation period, both for debts where the transactions took place before the end of the implementation period but where the amounts became due after that period, and in relation to debts arising from transactions covered by the tax and excise goods articles in the Withdrawal Agreement.

TITLE XII: PRIVILEGES AND IMMUNITIES (P&I) (*articles 101-119*)

107. This title makes arrangements for certain privileges and immunities for EU institutions to continue to apply to the ongoing functions of the Union in relation to the UK after the implementation period. An arrangement which closely mirrors the existing privileges and immunities will apply to activities that are agreed under the Withdrawal Agreement. In broad terms, immunity for official actions taken by UK and EU representatives before the end of the implementation period will also be preserved.

108. These measures provide the EU with certain protections and exemptions from domestic law, such as the inviolability of premises and exemption from certain taxation. Privileges and immunities are a standard feature of international law, and are generally considered necessary for the proper functioning of international organisations. The privileges and immunities granted to the EU are similar to the privileges and immunities afforded to other international organisations in the UK.

TITLE XIII: OTHER ISSUES RELATING TO THE FUNCTIONING OF THE INSTITUTIONS, BODIES, OFFICES AND AGENCIES OF THE UNION (*articles 120-125*)

109. The title provides for a range of miscellaneous institutional issues as well as continuity of the operating conditions for the European Central Bank's (ECB) and European Investment Bank's (EIB) residual activity in the UK at the end of the implementation period.

110. The UK will continue to respect that EU officials and representatives are bound by an obligation of professional secrecy and discretion in relation to information they have obtained prior to exit and during the implementation period.

111. The title also deals with the EU's access to documents regime in relation to documents obtained by both parties before the implementation period or under the terms of the Withdrawal Agreement. The UK will continue to have protections equivalent to a Member State when the EU is considering whether to disclose a document that it has obtained which originates from the UK.

112. The UK will remain bound by the European Schools Convention and the European Schools Regulations on Accredited European Schools until 31 August 2021. This means that the UK will continue to second teachers to work in the system for this period and that the UK-based Accredited European School can continue to teach the European Schools' curriculum and offer the European

Baccalaureate until the end of the 2020-21 academic year if it receives renewed accreditation from the European School Board of Governors.

PART FOUR: IMPLEMENTATION (TRANSITION) PERIOD (*articles 126-132*)

Summary

113. The UK has secured a time-limited implementation period until 31 December 2020. During this time common rules will remain in place with EU law continuing to apply in the UK subject to the terms set out in the Withdrawal Agreement. This will mean that businesses will be able to trade on the same terms as they do now. The agreement is of mutual benefit, building an important bridge to our future relationship, and giving citizens and businesses in both the UK and the EU the time and confidence they need to plan for the UK's future relationship with the EU.

What does part four cover:

Time-limited

114. Part four of the Withdrawal Agreement sets out the scope of the implementation period (referred to in the treaty as the 'transition period'), and how it will function. This period of continuity will last from the moment of exit until 31 December 2020. The Withdrawal Agreement provides that during this period the UK will no longer be a member of the EU, but will be treated as such under Union law unless otherwise specified. This means that during this time EU law and EU supervision and enforcement arrangements will continue to apply to the UK. At the end of the implementation period, the current application of common rules will come to an end, as will the existing arrangements under which EU law applies in the UK.

Common Foreign and Security Policy

115. The Withdrawal Agreement provides for the possibility of the future relationship in the areas of foreign policy, defence and security to come into effect during the implementation period, reflecting the unique nature of the EU's Common Foreign and Security Policy and Common Security and Defence Policy in the Treaties. If an agreement on the future relationship in this area comes into effect during the implementation period, the relevant areas of existing EU law will cease to apply to the UK. In advance of that point, and in exceptional cases, the UK will be able to choose not to apply an EU foreign policy decision where it is not consistent with UK national policy. Where there is a need for coordination, the UK could be consulted on a case-by-case basis. The UK will not command or lead EU operations and missions, nor provide their headquarters.

Security-Related Sensitive Information

116. In exceptional circumstances, the UK may be excluded from certain exchanges of EU security-related sensitive information during the implementation period. This could only apply to a procedure or programme that continues to be implemented, or starts, after the end of the implementation period. The EU is required to notify the UK of any such exclusion.

Participation

117. The UK's involvement in EU institutions will reflect the fact that it is no longer a Member State. This means, for example, that participation in EU bodies and agencies will be on a case-by-case basis. The UK and the EU have, however, agreed that representatives or experts from the UK will be able to continue to attend certain EU meetings, and meetings of EU entities where representatives or experts of Member States take part. This is provided that the presence of the UK is necessary and is in the interests of the Union, or where the discussion concerns acts addressed to the UK and its citizens. In international bodies where the EU currently represents the UK, the EU may invite the UK to participate as part of its delegation, where the presence of the UK is necessary and is in the interest of the Union. Where the UK currently participates in international bodies in its own right it will continue to do so. The UK will also retain access to specific information systems and databases for the duration of the implementation period.

118. The UK will continue to participate in existing Justice and Home Affairs (JHA) measures during the implementation period that we have already opted into. The UK will also be able to opt in to measures that amend or replace these existing measures and can be invited to cooperate in new measures during this period.

119. During the implementation period, UK authorities will no longer act as leading authorities on behalf of the EU in respect of risk assessments, examinations, approvals and authorisation procedures.

International agreements

120. During the implementation period the UK and the EU have agreed that the UK will be treated as a Member State for the purposes of EU international agreements with third countries. The EU will notify third countries of this. This provides important continuity. In addition, during this period, the UK will be able to negotiate, sign and ratify new international agreements that come into effect after

the period ends. This will enable the UK to step out and take forward new trade deals with global partners.

Fisheries

121. Specific arrangements are also made in relation to fishing opportunities, to enable a smooth transition to the new relationship between the UK and the EU. During the implementation period the UK's fisheries rules will be aligned with those of the EU and the UK's share of catch cannot be reduced. During the last year of the implementation period, the UK will be able to negotiate its own fishing opportunities for the following year. The UK and the EU intend to conclude a new fisheries agreement in time to determine fishing opportunities for the first year after the Implementation Period, in preparation for which during the Implementation Period the UK can be invited to form part of the EU's delegation in international negotiations.

Potential extension of the implementation period

122. The section on the Protocol for Northern Ireland describes the process if a potential extension of the implementation period beyond 31 December 2020 is sought. The Protocol allows the UK, having had regard to progress towards a subsequent agreement, to request an extension of the implementation period before 1 July 2020. If the full implementation of a future agreement to supersede the Protocol cannot be finalised by December 2020, the Protocol gives the UK a choice to either implement the Northern Ireland backstop or to seek an extension of the implementation period, affording flexibility as to the appropriate course of action at the time.

123. The mechanism to extend the implementation period is set out in part four of the Withdrawal Agreement. Extension would be decided by the UK-EU Joint Committee.

124. If the implementation period is extended the UK would cease to participate in the EU budget as if a Member State at the end of 2020, and the financial settlement in part five would continue to apply as agreed. Instead, the UK would make an appropriate financial contribution for the duration of the extension, reflecting its status in transition. The UK-EU Joint Committee would agree the amount and a schedule for making payments as part of the decision on extension, and the Government is committed to ensuring that this would represent a fair deal for UK taxpayers. The next generation of EU programmes are due to begin in 2021, and are currently under negotiation in the EU. The Government will make decisions on participation in specific programmes in light of these negotiations, the future

relationship negotiations and UK priorities. In addition, the UK would not be part of the CAP during the extension, and the UK would be free to introduce a new agricultural policy providing the payments remain within certain agreed limits.

125. Other dates or periods referred to throughout the Withdrawal Agreement that are linked to the end of the implementation period would also need to be adapted should the implementation period be extended.

PART FIVE: FINANCIAL SETTLEMENT (*articles 133-157*)

Summary

126. The Government has always been clear that any agreement on financial matters should represent a fair settlement of the UK's rights and obligations as a departing Member State, in accordance with the law and in the spirit of the UK's continuing partnership with the EU.

What does part five cover:

127. The negotiated financial settlement covers the UK's financial commitments to the EU and the EU's financial commitments to the UK. The UK and the EU have reached agreement on the components of the settlement, the methodology for calculating the UK's share and the payment schedule.

128. Although the definitive value of the financial settlement will, by its nature, be dependent on future uncertain events, following the outline agreement on the financial settlement in December 2017 the Government used publicly available European Commission data to set out a reasonable central estimate of the settlement of £35-39 billion⁷. The National Audit Office (NAO) subsequently produced a report which concluded that this was a reasonable estimate⁸.

Principles for the financial settlement

129. The settlement is based on three agreed principles which ensure a fair deal for UK taxpayers:

- a. The UK will not finance any commitments that do not require funding from Member States, and will receive a share of any financial benefits that would have fallen to it had it remained a Member State.

- b. The agreement establishes the UK's share of the EU obligations in the settlement. For 2019-20, the share will be based on the current methodology for determining the UK's annual EU budget contributions. For payments after the end of the implementation period, it will be based on the UK's average share of EU contributions during the current Multiannual Financial

⁷ [Correspondence from the Chancellor of the Exchequer to the Chair of the Treasury Select Committee relating to the UK's EU Withdrawal financial settlement](#), January 2018

⁸ [Exiting the EU: the financial settlement](#), 20 April 2018

Framework, in other words, the UK's share will be the average of its share of the EU budget (taking into account the rebate) over 2014-20.

c. The UK will only be required to make payments as they fall due. The UK will not be required to incur expenditure earlier than would have been the case had it remained a Member State. An exception can be made in a few specific cases where it might be in both sides' interests to settle these early. This is particularly relevant for pensions, where costs will decline steadily over a long-term period.

Components of the financial settlement

130. The financial settlement has three main components:

- a. The UK will participate in the EU's annual budgets over 2019 and 2020, covering the implementation period and the remainder of the current Multiannual Financial Framework, and receive its fair share of receipts. The UK will also receive its rebate in 2019 and 2020.
- b. The UK will pay its share of outstanding EU budget commitments as at the end of 2020, and again will get its fair share of receipts from those commitments.
- c. The UK will its share of the liabilities as at the end of 2020, taking account of EU assets. Residual liabilities include the pensions and other employee benefits of the members and staff of the European institutions. The UK will contribute towards those pension rights accrued on or before 31 December 2020. Most contingent liabilities relate to guarantees on EU and European Investment Bank (EIB) financial operations, and are currently reported as having a remote probability of crystallising. The UK's EIB paid-in capital of almost €3.5 billion will be returned over 12 years, starting in 2019. The UK will also be reimbursed for its paid-in capital in the European Central Bank. The UK will also get a share of all fines imposed by the EU before the end of the implementation period, and any fines resulting from the processes described in the administrative procedures section of the Withdrawal Agreement.

131. Once the Withdrawal Agreement has been ratified, the terms of the negotiated financial settlement will become international commitments and displace

the Government's guarantee given after the referendum⁹. This commitment in the Withdrawal Agreement provides certainty to current recipients of EU funding, including farmers, businesses and academics, with the UK continuing to get receipts due under the current EU budget plan.

Other bodies or organisations affected

132. There are a number of areas where bodies or organisations have been established outside the EU Treaties through separate international agreements, but are managed by EU institutions or in close alignment with EU policies. The Withdrawal Agreement also makes provision for these to ensure that there is certainty on how they will be treated:

- a. The UK will continue to participate in the current European Development Fund (EDF), which covers the same period as the 2014-20 budget plan. The majority of the current EDF has already been committed and forms part of the UK's overall commitment on Overseas Development Assistance, supporting low income countries. UK Overseas Territories will benefit from the current EDF until its closure, and from previous EDFs until their closure.
- b. The UK will honour commitments it made for the EU Trust Funds and the Facility for Refugees in Turkey.

Process for making payments

133. The Withdrawal Agreement includes a clear timeline for honouring mutual financial commitments, which includes the Commission providing information for upcoming UK payments and the payment plan for reimbursing the UK. The majority of financial commitments after the end of the implementation period will have reference dates of 30 June and 31 October each year. In advance of the reference dates, the EU will inform the UK of the required payments, which will be made in four equal monthly instalments for payments with a reference date of 30 June or eight equal monthly instalments for payments with a reference date of 31 October.

134. The Government has negotiated arrangements to provide assurance on payments made under the financial settlement. This includes the right to appoint auditors working on the Government's behalf to assure the implementation of the financial settlement. On the UK's request, the EU will provide these auditors with information and assistance to allow them to accomplish their task.

⁹ [Further certainty on EU funding for hundreds of British projects](#), HM Government, 3 October 2016

135. In addition to the Joint Committee that governs the whole of the Withdrawal Agreement, there will be a specialised committee on the financial provisions co-chaired by the UK and the EU, and bringing together experts from the UK and the EU. This committee will meet at least yearly, and support the Joint Committee to implement the provisions of the Withdrawal Agreement appropriately.

136. The Government currently lays an annual statement before Parliament on European Union Finances that presents information on our contributions and receipts. The Government will follow this best practice as it seeks to update Parliament and taxpayers on payments under the settlement.

PART SIX: INSTITUTIONAL AND FINAL PROVISIONS (*articles 158-185*)

Summary

137. The Government has been clear that the Withdrawal Agreement should provide legal certainty and clarity to citizens, businesses and organisations. It is crucial that there is a shared understanding between the UK and the EU on what the Withdrawal Agreement means, how it will be upheld and how disputes will be handled. The UK has consistently maintained that any body making these decisions must be fair and balanced, working in the best interests of both the UK and the EU.

What does part six cover:

138. Part six sets out the procedures to provide for consistent interpretation of the Withdrawal Agreement, the institutional framework for the agreement and the procedure for settling disputes after the end of the implementation period.

Consistent Interpretation and Application:

139. As noted in the Citizens' Rights section, to ensure that there is consistent interpretation of the agreement on Citizens' Rights the title confirms that UK courts will be able to make preliminary references to the CJEU for a time-limited period with regard to the interpretation of the Citizens' Rights part of the Withdrawal Agreement. This will be for eight years from exit day for the issue of settled status and eight years from the end of the implementation period for all other Citizens' Rights provisions.

140. The title also sets out arrangements for the European Commission to make submissions to UK courts when they are considering the interpretation of the Withdrawal Agreement; for the UK to participate, and for UK lawyers to represent or assist parties, in relevant proceedings before the CJEU; and for senior UK judges to be able to maintain a dialogue with CJEU judges.

141. The title confirms the arrangements for the establishment of the independent monitoring authority (IMA) in the UK to oversee the implementation and application of the Citizens' Rights provisions in part two. In the EU, this monitoring function will be provided by the European Commission. It sets out reporting arrangements for the UK IMA and for the European Commission to report to the UK-EU Joint Committee (more detail below) on the application of the Citizens Rights' provisions within the UK and the EU respectively. It also provides for the Joint Committee to consider after eight years whether the IMA should be abolished.

142. The title limits UK courts' ability to make preliminary references to the CJEU on other areas of the Withdrawal Agreement to specific provisions within two articles of the financial settlement. These articles relate to the EU's revenue system before 2020 and the 2014-2020 Multiannual Financial Framework. The European Commission will continue to have an enforcement role if the UK does not meet its commitments on the financial settlement, for example, initiating infringement procedures where appropriate.

Institutional provisions:

143. The title sets out arrangements for the institutional architecture for the Withdrawal Agreement, through the creation and functioning of the Joint Committee which will be responsible for the implementation and application of the Withdrawal Agreement. The UK or the EU may refer to the Joint Committee any issue relating to the functioning of the Withdrawal Agreement. The Joint Committee will then be empowered to make decisions and recommendations by mutual consent. The Joint Committee will meet at the request of either party or at least once a year. To ensure transparency, the Joint Committee will issue an annual report on the functioning of the Withdrawal Agreement.

144. In addition to the Joint Committee, the title provides arrangements for the creation of six specialised sub-committees and measures to establish additional sub-committees if required. These sub-committees will be the first point of contact for issues concerning Citizens' Rights, Separation Provisions, the Financial Settlement and the protocols on Northern Ireland/Ireland, Gibraltar and the Sovereign Base Areas. These specialised committees will be attended by representatives from the UK and the EU and report to the Joint Committee.

145. Annex VIII sets out the rules of procedure for the Joint Committee and the specialised committees. The Joint Committee will be co-chaired by high level representatives from the UK and the EU and will meet alternately in Brussels or London, unless the co-chairs agree otherwise.

Dispute Settlement:

146. The title sets out arrangements for resolving disputes regarding the interpretation and application of the Withdrawal Agreement after the end of the implementation period. In the first instance, there will be consultations in the Joint Committee with the aim of reaching a mutually agreed solution. If no mutually agreed solution has been agreed within three months, there is a mechanism to establish an independent arbitration panel to rule on the dispute.

147. A five person arbitration panel will be composed of two members proposed respectively by the UK and the EU, and a single chairperson agreed jointly by both parties, to ensure fair and balanced representation. The title also describes a mechanism for agreeing the appointment of the panel in the circumstance where the parties cannot agree on the chair to ensure that the resolution of a dispute cannot be blocked or delayed.

148. Where a dispute involves a question on the interpretation of EU law, the panel will not decide on that question, but request the CJEU to give a ruling on it. It will still be for the arbitration panel however to rule on the dispute as a whole. Each party will be able to make representations about the need for a reference and a hearing will take place if either party disagrees with the panel's decision. However, it will ultimately be for the panel to determine whether an interpretation by the CJEU is required.

149. The arbitration panel's ruling on a dispute will be binding and the parties will be obliged to comply with the ruling within a reasonable period. If compliance is not achieved within that period, the arbitration panel may impose a lump sum or penalty payment to be paid to the other party in order to incentivise compliance. If this is not paid, or if the offending party fails within a further six months to comply with the arbitration panel's ruling, then the complainant will be able to suspend in part or full the Withdrawal Agreement, except for the Citizens' Rights part, or other agreements between the UK and the EU. Suspension must be proportionate and the issue of proportionality is subject to review by independent arbitration.

150. Annex IX sets out the rules of procedure for the arbitration mechanism, including the rules regarding the conduct of the arbitration panel and its administrative procedures.

Final Provisions

151. The final provisions to the Withdrawal Agreement record the UK and the EU's commitment to negotiate in good faith and conclude agreements envisaged by the Political Declaration on their future relationship within a certain time frame.

152. The title confirms that the Withdrawal Agreement will enter into force at the end of the Article 50 period (this will be 23:00 29 March 2019 UK time) but that the most of the Northern Ireland and Sovereign Base Areas protocols and most of the Citizens' Rights, separation and institutional provisions, including dispute resolution, only have effect at the end of the implementation period unless otherwise specified.

153. The title sets out additional issues including confirmation that the Withdrawal Agreement will be translated into all EU official languages and that all translations will be equally authoritative. This title also sets out that Member States who are unable to extradite their own nationals outside of the EU, for reasons related to fundamental principles of national law, may refuse to do so to the UK during the implementation period under the European Arrest Warrant Framework (EAW) Decision.

PROTOCOL: NORTHERN IRELAND / IRELAND

Summary

154. The Government has been clear on the need for the UK's orderly withdrawal from the EU to take account of the unique circumstances of Northern Ireland. In particular, the UK Government has committed to avoiding any hard border between Northern Ireland and Ireland, and to upholding the 1998 Belfast (Good Friday) Agreement and its successors in full. We have been clear that the best way to meet those commitments is through a deep and special future economic partnership which applies between the UK and the EU as a whole. That objective is explicitly provided for in the Withdrawal Agreement Protocol on Ireland and Northern Ireland (the Protocol).

155. The December Joint Report¹⁰ also committed to a so-called "*backstop*" solution as a safeguard, which we have codified in the Protocol. This will ensure that, in all circumstances, the economic and constitutional integrity of the UK will be maintained; that there will be no split in the UK's customs territory; and that we will maintain the conditions which underpin the lives and livelihoods of the people of Northern Ireland.

156. The text is clear that the backstop is not the preferred or expected outcome. It sets out a best endeavours commitment to negotiate this future relationship as a whole, and a more specific best endeavours commitment in the Protocol to reach a future agreement which supersedes the backstop by December 2020.

157. The Protocol also establishes that the implementation period could be extended, subject to mutual agreement, for a limited period of time as an alternative to the backstop coming in to force. This means that there will be an option to avoid the backstop even in the event that our future relationship is not complete and a temporary bridge is required. In those circumstances, whether it would be preferable for the backstop to come into effect for a temporary period, or to request a temporary extension of the implementation period, will be a sovereign choice for the UK Government. This would allow the UK Government, with an appropriate role for Parliament, to consider the right approach in the national interest.

158. The Protocol meets the four key objectives outlined by the Prime Minister in her statement to the House of Commons in October¹¹: a UK-EU joint customs territory that is legally binding in the Withdrawal Treaty; an option to extend the

¹⁰ [Joint report on progress during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU](#), 8 December 2017

¹¹ <https://www.gov.uk/government/speeches/pms-statement-on-european-council-22-october-2018>

Implementation Period; assurances that we cannot be kept permanently in the backstop; and protections to ensure Northern Ireland's businesses have full access to the UK internal market.

Context

159. Northern Ireland is the only part of the UK with a land border with an EU Member State, and the free and unfettered movement of goods and people across that border is vital to the lives and livelihoods of the people on both sides of the border. The December Joint Report also made clear the importance of Northern Ireland in the UK internal market, outlining that Northern Ireland businesses must continue to have the same unfettered access to the whole of the UK.

160. In December 2017, the UK and the EU agreed in the Joint Report that *'in the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the 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'*. This guarantee was important to assuring the people of Northern Ireland and Ireland that, in all circumstances, a hard border would be avoided.

161. The UK Parliament has since, in the Withdrawal Act, voted in favour of placing the December Joint Report commitments on a statutory footing; to avoiding a hard border and any related checks and controls; and, in the Taxation (Cross-Border Trade) Act 2018, to ensuring that Northern Ireland does not form part of a separate customs territory to Great Britain. The legal text agreed between the UK and the EU delivers on these commitments.

162. The UK Government remains firmly committed to negotiating a future relationship that permanently avoids the need for a hard border between Ireland and Northern Ireland. This is reflected in the outline Political Declaration, published alongside the Withdrawal Agreement today. However, as an additional safeguard, the December Joint Report committed to a so-called "backstop" solution, which we agreed should be codified in legally operative text in the Withdrawal Agreement.

163. The UK and the EU have therefore agreed a Protocol on Ireland and Northern Ireland which guarantees that, even in the unlikely event that our future relationship with the EU is not in place by the end of the implementation period, there will be no hard border between Northern Ireland and Ireland or a splitting of the UK customs territory.

What does the Protocol cover:

Recitals

164. The recitals provide the context of the unique challenges on the island of Ireland, recognising the rights and principles in the Belfast (Good Friday) Agreement that are relevant to the Protocol and reaffirm commitments made in the December Joint Report. This includes commitments to the citizenship provisions of the Belfast (Good Friday) Agreement, and to current and future PEACE and INTERREG funding programmes.

165. They also reflect common understanding between the parties on key concepts. The recitals recognise the UK and EU's common objective of a close future relationship and intention that the backstop should be superseded by a subsequent agreement with alternative arrangements to achieve its objectives. The recitals explicitly recognise Northern Ireland's place in the UK's internal market, and note that nothing in the Protocol will prevent Northern Ireland businesses enjoying unfettered access to the whole UK market.

OBJECTIVES AND SUBSEQUENT AGREEMENT (*Articles 1-2*)

166. This sets out the objectives of the Protocol and both parties' clear intention that it should apply temporarily, along with an obligation for both parties to work towards agreeing a subsequent agreement that will supersede the application of the Protocol.

167. These articles set out that the Protocol is without prejudice to the Belfast (Good Friday) Agreement, and affirm the territorial integrity of the UK and the principle of consent set out in that Agreement. That principle sets out that the constitutional status of Northern Ireland is a matter of the 'freely exercised and legitimate' choice of a majority of people who live there; and that there shall be no change in that status without the agreement and consent of a majority of the people of Northern Ireland, and by agreement between the two parts of Ireland, with that constitutional future decided 'without external impediment'.

168. Article 1(3) outlines the objectives of the Protocol: to establish arrangements necessary to address the unique circumstances of Northern Ireland, maintain the necessary conditions for continued North-South cooperation, avoid a hard border and protect the Belfast (Good Friday) Agreement in all its dimensions. Article 1(4) makes clear that the objective of the Protocol is expressly not to create a permanent relationship between the UK and the EU, and that it is intended to apply

only temporarily, unless and until it is superseded by a subsequent agreement in whole or in part.

169. These articles commit the UK and the EU to use best endeavours to conclude an agreement capable of superseding the Protocol in whole or in part by the end of the implementation period. This creates a binding international obligation on both the UK and the EU to seek to reach an agreement that will mean the Protocol either does not apply, or applies only for a temporary period.

170. The temporary nature of the Protocol is reinforced by a review procedure. In the unlikely event of the Protocol needing to come into effect, if either the UK or the EU believe that it is no longer necessary to meet the objectives of the Protocol set out in Article 1(3), either party can unilaterally instigate a review. The Joint Committee will be obliged to consider the issue, having regard to all of the objectives of the Protocol, and can decide that the Protocol should cease to apply. Both parties will be obliged to act in good faith.

171. In the case of any disputes concerning either the obligation to use best endeavours to agree a future relationship that supersedes the Protocol, or the obligation to review whether the Protocol remains necessary in the light of its objectives, the dispute resolution process agreed as part of the Withdrawal Agreement will apply. This means that after the implementation period, dispute would be resolved by an independent arbitration panel.

POTENTIAL EXTENSION OF THE IMPLEMENTATION PERIOD (*Article 3*)

172. This sets out the process if a potential extension of the implementation period beyond 31 December 2020 is sought. This article allows the UK, having had regard to progress made towards a subsequent agreement, to request, at any time before 1 July 2020, an extension of the implementation period. In a situation where the backstop may need to come into effect, for example if the full implementation of a future agreement to supersede the Protocol cannot be finalised by 31 December 2020, this article gives the UK a choice to either implement the backstop or to seek an extension of the implementation period, affording flexibility as to the appropriate course of action at the time.

RIGHTS OF INDIVIDUALS AND COMMON TRAVEL AREA (*Articles 4-5*)

173. Guarantees of equality and rights, which recognise the unique circumstances of Northern Ireland, are a fundamental part of the Belfast (Good Friday) Agreement. The UK Government has acknowledged that EU law, particularly on protection from discrimination, has formed part of the framework for delivering those guarantees. In

recognition of this, in the December Joint Report the UK committed to ensuring that the rights, safeguards and equality of opportunity provisions set out in the Belfast (Good Friday) Agreement chapter of the same name will not be diminished as a result of our withdrawal from the EU.

174. The continued operation of the Common Travel Area (CTA) and the protection of the associated rights and privileges enjoyed by British and Irish citizens when in the other's state is also fundamental to the historic and enduring ties between our countries and our people. In the December Joint Report, the UK agreed with the EU that we would continue to make arrangements with Ireland relating to the CTA, respecting Ireland's obligations.

175. The UK commits, in Article 4, to ensuring no diminution of the rights protected in the Rights, Safeguards and Equality of Opportunity chapter of the Belfast (Good Friday) Agreement. This means that the UK will take steps to ensure that the rights and equalities protections in that chapter, and currently available to individuals in Northern Ireland, are not diminished as a result of UK Exit. The annex to this article contains reference to the six core EU anti-discrimination laws that are particularly relevant to the no diminution commitment - including, for example, provision on sectarian harassment. This reflects our acknowledgment that EU law has formed part of the framework providing for guarantees under the Belfast (Good Friday) Agreement in this respect.

176. We have agreed to implement the no diminution commitment through a 'dedicated mechanism'. It is intended that this mechanism will draw on the existing human rights and equality bodies established under the Belfast (Good Friday) Agreement - namely the Northern Ireland Human Rights Commission (NIHRC), the Equality Commission for Northern Ireland (ECNI) and, on issues with an island of Ireland dimension, the Joint Committee - to provide independent oversight of the 'no diminution' commitment. The UK will confer upon NIHRC and ECNI new powers to monitor, supervise, advise and report on and enforce the commitment, as well as provide adequate resources to ensure that they are able to perform their enhanced roles effectively. The UK Government will continue to engage with both Commissions on issues relating to the dedicated mechanism.

177. Article 5 of the Protocol guarantees that the UK can continue to make arrangements with Ireland relating to the CTA. The UK and Ireland will be able to continue to guarantee the reciprocal rights of British and Irish citizens to reside, work, study and access social security and health services in the other state.

SINGLE CUSTOMS TERRITORY (*Article 6*)

178. Article 6 sets out the provisions to establish a Single Customs Territory between the UK and the EU, and to ensure the free flow of goods between Northern Ireland and Ireland.

179. Article 6(1) creates a Single Customs Territory between the UK and the EU in the event that the Protocol comes in to force. This article is clear in providing that Northern Ireland will not be part of a separate customs territory to the rest of the United Kingdom.

180. Annexes 2 and 3 set out the core rules governing the single customs territory including, for example, the criteria for third country goods entering the territory. The text prohibits all customs duties and quantitative restrictions between the UK and the EU, and prohibits taxation on imports in excess of those applying to similar domestic products. These provisions are normal legal commitments within a Single Customs Territory to provide for reciprocal tariff-free and quota-free access to markets for goods.

181. The text reflects the UK's commitment to align with the EU's Common External Tariff, and with the Common Commercial Policy on trade in goods with third countries to the extent necessary give effect to these provisions. The text provides for the UK to remain within the EU's trade defence regime for the duration of this Single Customs Territory regime.

182. The text also provides for the UK and the EU to cooperate on WTO matters to the extent necessary for the functioning of the single customs territory. The further detailed arrangements for the operation of the single customs territory are to be agreed by the Joint Committee by 1 July 2020. Annex 3 provides for administrative arrangements applying in the event that the Joint Committee has not adopted a decision on these operational matters, such as on: the nature of documentary evidence to prove entitlement to benefit from these arrangements; and administrative cooperation. Annex 3 comes into effect in the event that the Joint Committee does not set out other arrangements by 1 July 2020.

183. The rules governing the single customs territory do not automatically apply in respect of fishery and aquaculture products. These products would be included when a UK-EU Fisheries Agreement has been reached that includes arrangements on access to waters and fishing opportunities. Nothing in this Protocol prescribes the content of that fisheries agreement, and the UK as a whole will not be part of the Common Fisheries Policy.

184. The UK- EU single customs territory arrangement would guarantee that Northern Ireland would be in the same customs territory as Great Britain. This therefore ensures there are no tariffs, quotas or checks on rules of origin within the UK.

OPEN AND FAIR COMPETITION (*Article 12, Annex 4*)

185. Annex 4 sets out the requirements to maintain fair and open competition within the single customs territory, which are fundamental to all trading relationships.

186. The Annex includes a joint commitment by the UK and the EU to good governance on tax, with additional commitments by the UK to continue administrative cooperation and anti-tax avoidance practices, as they stand at the end of the implementation period. These are rules that have been agreed by unanimity while the UK has been a Member State. The UK and the EU have reaffirmed their commitments to curb harmful tax practices, and the UK has reaffirmed its commitment to the politically binding Code of Conduct on Business Taxation as it stands at the end of the implementation period. Disputes about this would not be subject to the Withdrawal Agreement arbitration mechanism.

187. In line with the UK's strong domestic commitments to maintain high standards, the Annex includes a commitment by both the UK and the EU to prevent any reduction in the levels of environment and labour protections as they stand at the end of the implementation period, known as a non-regression provision, and to maintain existing international commitments in these areas. In terms of enforcement, the European Commission will ensure that the EU is upholding these commitments; and in the UK they will be enforced domestically. Disputes about these non-regression commitments will not be subject to the Withdrawal Agreement arbitration mechanism. In the case of competition, the Annex sets out the common principles that the UK and the EU will apply in their own territories, with enforcement in the UK undertaken by the Competition and Markets Authority (CMA).

188. The Annex also includes a requirement for the UK to harmonise on an ongoing basis with the EU's state aid rules, and for close cooperation between UK and EU regulators. For measures that affect trade between Great Britain and the EU, the CMA will be responsible for enforcement. As set out in Article 12 of the Protocol, for measures that affect trade between Northern Ireland and the EU, the European Commission will be responsible for enforcement and will be required to keep the UK authorities fully and regularly informed.

MOVEMENT OF GOODS BETWEEN NORTHERN IRELAND AND IRELAND **(Article 6)**

189. The Protocol also addresses the movement of goods between Northern Ireland and Ireland. Article 6 sets out the basis to ensure that goods continue to be able to move freely across the border between Northern Ireland and Ireland, with businesses in Northern Ireland able to access the EU Single Market as a whole without restriction.

190. The Protocol includes a commitment by the UK to apply, in Northern Ireland, EU legislation on industrial, environmental and agricultural goods. This commitment on applying harmonised regulation is limited to those rules that are necessary to achieve the objectives of the Protocol as set out in Article 1(3).

191. The application of the Union Customs Code in Northern Ireland is necessary since the UCC covers all formalities before a good can be released for free circulation in the EU. These include all of the overarching requirements for regulatory compliance. Once a good has completed such formalities it can be considered a 'Union good' and in free circulation.

192. Northern Ireland will also apply a limited amount of EU law which includes relevant regulatory requirements for the movement of goods. The list of which regulations are included within the scope of this commitment is set out in Annex 5.

193. Only rules that are strictly necessary to avoid a hard border and protect North-South cooperation have been included in Annex 5. They constitute a small fraction of the single market rules that currently apply to the UK, representing a significant increase in the areas over which the UK Parliament or devolved institutions in Northern Ireland will be free to legislate.

194. Specifically, with regards to agricultural goods (Article 10), the regulations set out in Annex 5 to meet the objectives in 1(3) for these product are only those strictly necessary to avoid a hard border and protect North-South cooperation. This will mean that, for example, products of animal origin or live animals moving between Northern Ireland and Ireland will not have to undergo SPS checks and controls. It is also important to note that the majority of animal welfare regulations and wider Single Market regulations, such as the Common Agricultural Policy and Common Fisheries Policy, are excluded from the annex.

195. For goods that are currently not subject to harmonised EU technical requirements (i.e. "non-harmonised goods"), Northern Ireland will continue to apply UK rules. Non-harmonised goods manufactured in Northern Ireland that adhere to

the relevant UK rules will be able to access the UK internal market in a backstop scenario.

196. The practical operationalisation of such a regime, in the event that this ever came in to effect, would require further work and discussion between the UK and the EU, and would be informed by the overall relationship between the UK and the EU at that stage. But both parties agree on the principles that should underpin the operation and application of relevant rules. Further detail is provided in the accompanying technical explanatory note on the operation of this article, which has been agreed between the UK and EU.

PROTECTION OF THE UK INTERNAL MARKET (*Article 7*)

197. The UK committed in December's Joint Report to ensuring that Northern Ireland businesses would continue to enjoy the same unfettered access to the whole of the UK's internal market. The Protocol recognises and protects that commitment, which will be given further effect domestically.

198. Article 7 recognises Northern Ireland's integral place in the UK's internal market and confirms that nothing in the Protocol will prevent the UK from meeting its commitment to unfettered access for Northern Ireland businesses.

199. The UK and the the EU are legally obliged under Article 7(2) to use their best endeavours to facilitate trade between Northern Ireland and the rest of the UK. In doing so, they must have regard to the regulatory regimes in place in both the UK and the UK and the EU. The UK and the EU will begin the period after the implementation period aligned with each other's regulatory regimes concerning goods and that that fact can be reflected in the decisions to be taken on flexibilities in providing assurances for goods moving from Great Britain to Northern Ireland. The Joint Committee would be obliged to keep under review this obligation to facilitate trade between Great Britain and Northern Ireland, with an express objective to avoid checks at the ports and airports of Northern Ireland.

200. Where a product's origins must be indicated, the Protocol allows for versatile labelling of Northern Ireland products. Goods sold in Northern Ireland or in the EU products would be labelled as originating from Northern Ireland. In Great Britain, products could be labelled as either being from Northern Ireland or United Kingdom.

201. Articles 7 and 8 make provisions for the recognition of assessments, registrations, certification, approvals or authorisations granted by authorities in the UK and the EU. No EU approval process will be required to place Northern Ireland goods onto the UK market, and both EU and UK approvals will be recognised for

goods to be sold throughout the UK. This means that Northern Ireland businesses placing goods on the market in both the EU and the rest of the UK will not have to go through two separate approvals processes.

202. Additionally registrations, certification, approvals or authorisations by UK authorities of Northern Ireland sites, installations or premises will remain valid. This means that, for example, physical inspections of a business premises will be carried out by UK bodies.

203. For Northern Ireland businesses, these provisions mean that they will only need to seek approvals or certifications once, and will be free to sell goods both in the EU and in the rest of the UK based on that single approval or certification. Businesses focused on the UK market would follow the approvals and certifications processes they do today, through the same UK bodies. Businesses facing the EU market and relying on EU approvals could continue to do so, while retaining full access to the UK internal market without additional new approvals burdens.

VAT AND EXCISE (*Article 9*)

204. Article 9 provides that certain EU VAT and excise rules will apply in Northern Ireland with respect to the movement of cross-border trade in goods.

205. However, Northern Ireland will remain part of the UK's VAT area, with HMRC continuing to be responsible for the operation and collection of VAT, and Parliament for the setting of VAT rates, across the UK in line with the Northern Ireland Act 1998. Specifically, the UK will ensure that no registered business is required to pay VAT upfront when moving goods between Great Britain and Northern Ireland, and that accounting for VAT can continue to be done through postponed accounting and UK VAT returns.

SINGLE ELECTRICITY MARKET (*Article 11*)

206. The Northern Ireland electricity market is separate from the market in Great Britain. Northern Ireland shares a wholesale electricity market with Ireland, the Single Electricity Market (SEM). This is an example of North-South cooperation that has benefited consumers and the economies of both Northern Ireland and Ireland. The arrangement has been in place since 2007 and, while supported by domestic legislation, is underpinned by EU law. The Government therefore made clear from the outset of the negotiations that protecting the ongoing operation of the SEM is a key priority.

207. Article 11 of the Protocol ensures that a clear legal underpinning is provided for the SEM to ensure that it will continue to operate. The approach taken provides for alignment with only those rules (listed in Annex 7 to the Protocol) needed to ensure the SEM's continued functioning of the SEM, linked to the governance of wholesale electricity markets, as well as relevant measures to ensure the same carbon price and emissions limits across the market.

NORTH-SOUTH COOPERATION (*Article 13*)

208. North-South cooperation was the central focus of Strand II of the Belfast (Good Friday) Agreement, which committed the signatories to the creation of institutional arrangements for this purpose. This provided for the establishment of the North South Ministerial Council (NSMC), which brings together representatives from the Irish Government and the Northern Ireland Executive on matters of mutual interest within the respective competences of those administrations. All decisions taken by the NSMC are by agreement of the Northern Ireland Executive and the Irish Government.

209. The December Joint Report commits the UK 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.” It recognised that North-South cooperation relies to a significant extent on a common European Union legal and policy framework. The December Joint Report also acknowledged that the UK's departure from the EU gives rise to challenges to the maintenance and development of North-South cooperation.

210. Article 13 gives effect to the UK's commitment on North-South cooperation, providing the basis for the UK and Ireland to “maintain the necessary conditions” for continued cooperation and also makes provision for the UK and Ireland to continue to make new arrangements to build on the provisions in the Belfast (Good Friday) Agreement.

211. The primary basis for ensuring the continued operation of North-South cooperation will be the devolution framework. The majority of areas of North-South cooperation are devolved matters in Northern Ireland, which will mean the Northern Ireland Executive and Assembly will have full powers in those areas to maintain necessary conditions for cooperation to continue. This commitment on North-South cooperation will also be facilitated by existing arrangements - such as the CTA and funding projects.

INSTITUTIONAL AND COMMON PROVISIONS (*Articles 14-19*)

212. Articles 14 to 19 set out the framework for the legal effect, enforcement, interpretation and review of the Protocol. They establish the means by which the UK and the EU will engage and consult with each other to implement and apply the Protocol; the means by which the terms of the Protocol can be enforced; and the way in which disputes will be resolved.

213. Article 14 sets out that the primary responsibility for the implementation and application of law given effect by the Protocol lies with the authorities of the United Kingdom, but provides also for cooperation between UK authorities and EU representatives in the implementation and application of that law. The EU will have the right to obtain information and specified control measures.

214. In those limited areas where the Protocol applies EU law in Northern Ireland, EU institutions, bodies, offices and agencies will exercise the same functions as now. This will mean, for example, that for a much narrower area of law than today, the European Commission will continue to supervise application of EU law under the Protocol. UK courts will apply this agreement in the same way they apply EU law today. For aspects of EU law applied by the Protocol, the European Court of Justice (CJEU) will remain the ultimate arbiter in this scenario.

215. This situation will last only until the Protocol is superseded by a future agreement or brought to an end through the review mechanism under Article 20. This would be the case for only five of the 21 articles of the Protocol, and one paragraph¹². All other areas of the Protocol will be subject to the governance arrangements of the wider Withdrawal Agreement, including dispute resolution by an independent arbitration panel.

216. Article 15 sets out the common provisions for the Protocol: those cross-cutting provisions relevant to the legal effect, status and interpretation of the Protocol. If the backstop comes into effect, the wider provisions of the Withdrawal Agreement (including on legal effect, governance, enforcement and dispute resolution) will apply in respect of the Protocol. This means that the Protocol will have the same legal effect in the UK and be interpreted by UK courts according to the same interpretative principles and methodologies as in the EU.

217. It also means that the institutional architecture, such as the Joint Committee structure, and enforcement and dispute resolution system, such as provision for independent arbitration, will apply in respect of the Protocol as a core part of the

¹² Article 6(2) and Articles 8-12.

Withdrawal Agreement, without prejudice to other provisions in the Protocol. In light of the role of the Court conferred by Article 14, Article 15 also provides for EU law to be given effect by the Protocol to be interpreted in conformity with judgments of the CJEU.

218. Article 15 also provides that where EU law is referred to by the Protocol, it is to be read as including amendments or replacements for that law. In practice, the extent to which amendments or replacements may be relevant for a temporary Protocol will be limited. There is also provision for the UK and the EU to jointly agree to include within the Protocol new areas of EU law, which do not replace or amend EU law already given effect by the Protocol. However, this would clearly require the agreement of both the UK and the EU as set out in the Protocol. The UK would ensure an appropriate role for the Northern Ireland Assembly, in line with our commitments, in this situation before agreeing to the addition of any new areas of Union law under the Protocol.

219. Article 15 also provides that while automatic UK access to EU networks, information systems or databases will not be continued by the application of the Protocol, full or partial access may be agreed to the extent necessary for the UK to comply with its obligations under the Protocol. UK authorities will not act as leading authorities for the EU in respect of risk assessments, examinations, approvals and authorisation procedures. This means that where EU law requires, for example, that goods have been certified or approved by a relevant authority, approvals of UK authorities will not be valid for this purpose. This does not affect the validity assessments, examinations, approvals or authorisations of UK bodies for goods in the UK market, including in Northern Ireland.

220. Article 15(8) provides that the protections against disclosure of information that could compromise national security, and provisions concerning cooperation where measures need to be taken in response to serious national emergencies, will also apply to the Protocol.

221. Article 16 and Article 17 set out specific forums for engagement between the UK and the EU on issues concerning the implementation of the Protocol. There will be a Specialised Committee, with representatives of both the UK and the the EU. Its functions will include facilitating the implementation and application of the Protocol and examining proposals made by bodies established by the Belfast (Good Friday) Agreement or issues raised by the bodies that will form the dedicated mechanism overseeing our commitment to no diminution of Belfast (Good Friday) Agreement rights. The Specialised Committee will report to the Joint Committee established under the Withdrawal Agreement, and can make recommendations to the Joint Committee.

222. In addition, there will be a joint consultative working group for the exchange of information and mutual consultation reporting to the Specialised Committee reporting to the Specialised Committee. This will be the forum in which the UK can be notified of planned new EU law which could be within scope of the Protocol and provided with information necessary to apply the Protocol. The UK and the the EU will be able to have consultations based on the information exchanged through the working group, and UK views must be communicated to the relevant EU body, agency or institution.

223. The text sets out that either the UK or the EU can unilaterally take appropriate safeguard measures where the application of the Protocol leads to serious economic, societal or environmental difficulties, or diversion of trade. Any safeguard measures must be proportionate and restricted to those necessary strictly necessary to remedy the difficulties. If the safeguard causes an imbalance in the rights or obligations under the Protocol, the other party can take rebalancing measures. These provisions are common in international obligations and are rarely used. Generally, where serious difficulties arise in other agreements, both parties would engage in consultations to jointly agree the best way forward. The detail of the notification and consultation requirements before safeguards can be applied are set out in Annex 10.

PROTOCOL: SOVEREIGN BASE AREAS

Summary

224. The Sovereign Base Areas (SBAs) of Akrotiri and Dhekelia are Overseas Territories of the UK. They are located on the island of Cyprus. The SBAs themselves are used for both military and humanitarian operations, and around 11,000 Cypriots live and work in the SBAs. At the time of concluding the 1960 Treaty of Establishment, the UK made a commitment that the laws applicable to the Cypriot population in the SBAs be, as far as possible, the same as the laws of the Republic of Cyprus (RoC). At the same time, the UK also undertook not to erect customs posts on the border between the SBAs and the RoC. The Protocol to the Withdrawal Agreement is intended to preserve the existing unique arrangements to reflect the UK's international commitments and ensure the continued effective operation of the SBAs for military purposes in the context of the UK's withdrawal from the EU.

What does the Protocol cover?

225. The unique situation of the SBAs means Union law will continue to apply in certain specified areas following the end of the implementation period, in line with the UK's commitments made at the time of the 1960 Treaty. This will include customs controls, data, goods and agriculture. This is reflected in the Protocol. The SBAs will continue to be part of the customs territory of the Union, reflecting the UK's commitment not to create barriers between the SBAs and the RoC. In applicable areas of Union law, Union governance arrangements will continue to apply. These arrangements are necessary to ensure the continued smooth operation of the SBAs and that Cypriots resident in the SBAs have the same rights to redress as those in the RoC.

226. The UK will retain responsibility for enacting necessary domestic legislation in relevant areas of Union law, and for implementing and enforcing that law. It will however entrust the responsibility for implementation and enforcement - short of the use of force - to the RoC in the areas of taxation, goods, agriculture, fisheries and veterinary and phytosanitary rules. This means that RoC authorities will be responsible to the Union for the implementation and enforcement of Union law in those areas. This builds on current arrangements on the ground, and will help to avoid ambiguity.

227. The Protocol makes detailed arrangements in relation to goods and customs, including arrangements for those goods entering or leaving through ports or airports in the SBAs. These arrangements largely continue the current practice but are set

out in greater detail to provide necessary clarity for when the UK is no longer a Member State.

228. The Protocol also sets out the procedures that will apply at the Green Line, which is the boundary running between the areas where the Government of the RoC exercises effective control and those areas where it does not. The EU's Green Line Regulation makes provision for the operation of this line, including special provisions for the boundary between the Dhekelia SBA and those areas in which the Government of the RoC does not exercise effective control. Where specific provision is made in relation to those parts of the line at the SBA boundary, the Protocol specifies that the Regulation can only be changed by decision of the Joint Committee, on a recommendation of the Specialised Committee on the SBAs. The Protocol also makes clear that the UK controls the boundary, but provides for cooperation with the RoC in tackling illegal migration. It also reflects current practice in terms of how the RoC is invited to carry out certain checks on goods, such as phytosanitary checks.

PROTOCOL: GIBRALTAR

Summary

229. Gibraltar is an Overseas Territory of the UK. Gibraltar is covered by the territorial scope of the Withdrawal Agreement, including part four on the implementation period, along with the other Overseas Territories and the Crown Dependencies. The particular extent of application to each of these territories reflects its relationship with the EU before the UK's withdrawal.

230. The Protocol on Gibraltar between the UK and the EU will be underpinned by other arrangements between the UK, Spain and the Government of Gibraltar which set out the parties' commitment to cooperation. These will be implemented in line with the constitutional arrangements in place between the UK and Gibraltar. These arrangements will include Memoranda of Understanding (MoUs) covering citizens' rights, tobacco, the environment, and police and customs cooperation, and will be concluded in the coming weeks. An agreement to conclude a treaty on taxation and the protection of financial interests is also expected to form part of the wider package. With the exception of provisions on citizens' rights, the Protocol is limited to the duration of the implementation period. The MoUs will be similarly time limited.

231. The Protocol and other arrangements address issues of importance to citizens and businesses in Spain and Gibraltar; and reflect a shared desire to work together in a spirit of trust and solidarity in support of the shared prosperity and security of the area. They are, or will be, without prejudice to respective positions on sovereignty, and do not in any way affect the UK's sovereignty over Gibraltar, including British Gibraltar Territorial Waters. Nothing in the Protocol affects the relationship between the UK and Gibraltar.

What does the Protocol cover:

232. On citizens' rights, the Protocol provides for close cooperation between the UK and Spain in relation to the implementation of part two of the Withdrawal Agreement, in Gibraltar and the surrounding area, including information exchange between competent authorities and the establishment of a coordinating committee to monitor and discuss these matters, which will be set out in the related MoU. This is particularly relevant given the role that the Gibraltar economy plays in providing employment to frontier workers from the surrounding area, and the Protocol recognises the importance of free movement continuing during the implementation period for the economic development of the area.

233. The effect of part four on the implementation period is to maintain the status quo on the application of EU aviation legislation to Gibraltar Airport, including where there is currently a suspension of application in place. The Protocol updates the mechanism by which such suspension would be lifted, following agreement.

234. Article 3 addresses tax transparency and cooperation; and highlights efforts to address the public health risks of smoking and to prevent and deter illicit trade in tobacco products, alcohol and petrol. Further arrangements will be made in the tobacco MoU and the envisaged tax treaty.

235. The Protocol also requires the establishment of coordinating committees in relation to the environment and police and customs matters, which will be done in the corresponding MoUs.

236. The coordinating committees will report to the Specialised Committee on Gibraltar, arrangements for which are set out in Article 6 of the Protocol. The Specialised Committee, made up of representatives of the UK and the EU, will support the effective implementation of the Protocol and make recommendations to the Joint Committee as required.

ANNEXES TO THE WITHDRAWAL AGREEMENT

237. A number of annexes are attached to the Withdrawal Agreement. These provide additional information required to support the technical interpretation and application of the agreement and include:

- Annex I: Social Security Coordination
- Annex II: Provisions of Union law referred to in Article 41(4)
- Annex III: Time limits for the situations or customs procedures referred to in Article 49(1)
- Annex IV: List of Networks, Information Systems and Databases referred to in Articles 50, 53, 99 and 100
- Annex V: Euratom
- Annex VI: List of Administrative Cooperation procedures referred to in Article 98
- Annex VII: List of Acts/Provisions referred to in Article 128(6)
- Annex VIII: Rules of Procedure of the Joint Committee and Specialised Committees
- Annex IX: Rules of Procedure