

## PROTOCOLS

### PROTOCOL ON GIBRALTAR

The Union and the United Kingdom,

RECALLING that the United Kingdom is responsible for Gibraltar's external relations, and that Union law is applicable to Gibraltar to the extent provided in the 1972 Act of Accession by virtue of Article 355(3) TFEU,

RECALLING that this Protocol is to be implemented in accordance with the respective constitutional orders of the Kingdom of Spain and of the United Kingdom,

RECALLING that, pursuant to Article 50 TEU, in conjunction with Article 106a of the Euratom Treaty, and subject to the arrangements laid down in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ("Withdrawal Agreement"), the law of the European Union and of Euratom in its entirety ceases, to apply to the United Kingdom, and therefore to Gibraltar, from the date of entry into force of the Withdrawal Agreement,

CONSIDERING that it is necessary to ensure an orderly withdrawal from the Union in relation to Gibraltar,

STRESSING that the orderly withdrawal of the United Kingdom from the Union in relation to Gibraltar implies that any potential negative effect on the close social and economic relations between Gibraltar and the surrounding area, in particular the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar in the Kingdom of Spain, is adequately addressed,

TAKING NOTE of the commitment of the United Kingdom in respect of Gibraltar to address the payment of benefits in a satisfactory manner by 31 December 2020,

AIMING at continuing to promote balanced economic and social development in the area, in particular in terms of labour conditions, and continuing to ensure the highest levels of environmental protection in accordance with Union law, as well as continuing to strengthen security for the inhabitants of the area, in particular through cooperation in police and customs matters,

ACKNOWLEDGING the benefits for the economic development of the area arising from the free movement of persons under Union law, which will continue to apply during the transition period,

REAFFIRMING in particular the ambition to protect public health, and highlighting the necessity to fight against the serious health, social, and economic consequences of smoking,

EMPHASISING also the need to combat fraud and smuggling and to protect the financial interests of all the parties concerned,

UNDERLINING that this Protocol is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to sovereignty and jurisdiction,

TAKING NOTE of the Memoranda of Understanding concluded between the Kingdom of Spain and the United Kingdom on 29 November 2018 in relation to citizens' rights, tobacco and other products, cooperation on environmental matters and cooperation in police and customs matters, as well as the agreement reached on 29 November 2018 to conclude a treaty on taxation and the protection of financial interests,

HAVE AGREED UPON the following provisions, which shall be annexed to the Withdrawal Agreement:

#### *Article 1*

#### **Citizens' rights**

1 The Kingdom of Spain ("Spain") and the United Kingdom in respect of Gibraltar shall closely cooperate with a view to preparing and underpinning the effective implementation of Part Two of the Withdrawal Agreement on citizens' rights, which fully applies, *inter alia*, to frontier workers residing in Gibraltar or in Spain, in particular in the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar, and which, in Articles 24 and 25 provide for specific rights for frontier workers.

2 To that effect, the competent authorities shall exchange up-to-date information on a quarterly basis on persons covered by Part Two of the Withdrawal Agreement who reside in Gibraltar or in the territory of the municipalities that make up the Mancomunidad de Municipios del Campo de Gibraltar, including, in particular, frontier workers.

3 Spain and the United Kingdom shall establish a coordinating committee as a forum for regular discussion between the competent authorities to monitor matters relating to employment and labour conditions. That coordinating committee shall report to the Committee on issues related to the implementation of the Protocol on Gibraltar established by Article 165 of the Withdrawal Agreement ("Specialised Committee") on a regular basis.

#### *Article 2*

#### **Air transport law**

Union law on air transport which did not apply to the Gibraltar airport before the date of entry into force of the Withdrawal Agreement shall only become applicable to the Gibraltar airport from the date established by the Joint Committee. The Joint Committee shall adopt the decision thereon upon notification by the United Kingdom and Spain that they have reached a satisfactory agreement on the use of the Gibraltar airport.

#### *Article 3*

#### **Fiscal matters and protection of financial interests**

1 Spain and the United Kingdom in respect of Gibraltar shall establish the forms of cooperation necessary to achieve full transparency in tax matters and in respect of the protection of financial interests of all the parties concerned, in particular by establishing an enhanced system of administrative cooperation to fight against fraud, smuggling and money laundering, and to resolve tax residence conflicts.

2 The international standards of the Group of Twenty (G20) and of the Organisation for Economic Co-operation and Development (OECD) relating to good fiscal governance, transparency, exchanges of information and harmful tax practices and in particular the economic substance criteria established by the OECD Forum on Harmful Tax Practices shall be complied with in Gibraltar, with a view to Gibraltar's participation in the OECD Inclusive Framework on base erosion and profit shifting (BEPS).

3 The United Kingdom shall ensure that its ratification of the Framework Convention on Tobacco Control, adopted in Geneva on 21 May 2003, and the Protocol to Eliminate Illicit Trade in Tobacco Products, adopted in Seoul on 12 November 2012, is extended to Gibraltar by 30 June 2020.

Without prejudice to the first subparagraph, the United Kingdom shall ensure that a system of traceability and security measures relating to tobacco products that is equivalent to the requirements and standards of Union law is in force in Gibraltar by 30 June 2020. That system shall ensure reciprocal access to the information on traceability of cigarettes in Spain and Gibraltar.

4 In order to prevent and deter the smuggling of products subject to excise duties or special taxes, the United Kingdom shall ensure that, in respect of alcohol and petrol, a tax system which aims at preventing fraudulent activities involving those products is in force in Gibraltar.

#### *Article 4*

### **Environment protection and fishing**

Spain and the United Kingdom shall establish a coordinating committee as a forum for regular discussion between the competent authorities of issues concerning in particular waste management, air quality, scientific research and fishing. The Union shall be invited to participate in the meetings of that coordinating committee. That coordinating committee shall report to the Specialised Committee on a regular basis.

#### *Article 5*

### **Cooperation in police and customs matters**

Spain and the United Kingdom shall establish a coordination committee as a forum for monitoring and for coordination between the competent authorities of any questions related to cooperation in police and customs matters. The Union shall be invited to participate in the meetings of that coordination committee. That coordinating committee shall report to the Specialised Committee on a regular basis.

#### *Article 6*

### **Tasks of the Specialised Committee**

The Specialised Committee shall:

- (a) facilitate the implementation and application of this Protocol;
- (b) discuss any point of relevance to this Protocol giving rise to a difficulty and raised by the Union or the United Kingdom;

- (c) examine the reports from the coordination committees referred to in this Protocol; and
- (d) make recommendations to the Joint Committee as regards the functioning of this Protocol.

## ANNEXES

### ANNEX I

#### SOCIAL SECURITY COORDINATION

##### PART I

#### DECISIONS AND RECOMMENDATIONS OF THE ADMINISTRATIVE COMMISSION

##### Applicable legislation (A series):

- Decision A1 of 12 June 2009 concerning the establishment of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provisions of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council;<sup>(1)</sup>
- Decision A2 of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State;<sup>(2)</sup>
- Decision A3 of 17 December 2009 concerning the aggregation of uninterrupted posting periods completed under the Council Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council.<sup>(3)</sup>

##### Electronic Data Exchange (E series):

- Decision E2 of 3 March 2010 concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI;<sup>(4)</sup>
- Decision E4 of 13 March 2014 concerning the transitional period as defined in Article 95 of Regulation (EC) No 987/2009 of the European Parliament and of the Council;<sup>(5)</sup>
- Decision E5 of 16 March 2017 concerning the practical arrangements for the transitional period for the data exchange via electronic means referred to in Article 4 of Regulation (EC) No 987/2009 of the European Parliament and of the Council<sup>[F1,]</sup><sup>(6)</sup>
- <sup>[F2]</sup>Decision No E7 of the Administrative Commission for the Coordination of Social Security Systems concerning practical arrangements for cooperation and data exchange until the Electronic Exchange of Social Security Information (EESSI) is fully implemented in the Member States.]

##### Family benefits (F series):

- Decision F1 of 12 June 2009 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 of the European Parliament and of the Council relating to priority rules in the event of overlapping of family benefits;<sup>(7)</sup>
- Decision F2 of 23 June 2015 concerning the exchange of data between institutions for the purpose of granting family benefits<sup>[F1;]</sup><sup>(8)</sup>
- <sup>[F2</sup>Decision No F3 of the Administrative Commission for the Coordination of Social Security Systems concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 relating to the method of calculation of the differential supplement.]

Horizontal issues (H series):

- Decision H1 of 12 June 2009 concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems;<sup>(9)</sup>
- Decision H3 of 15 October 2009 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council;<sup>(10)</sup>
- Decision H4 of 22 December 2009 concerning the composition and working methods of the Audit Board of the Administrative Commission for the Coordination of Social Security Systems;<sup>(11)</sup>
- Decision H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems;<sup>(12)</sup>
- Decision H6 of 16 December 2010 concerning the application of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) No 883/2004 on the coordination of social security systems;<sup>(13)</sup>
- Decision H7 of 25 June 2015 on the revision of Decision H3 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems;<sup>(14)</sup>
- Decision H8 of 17 December 2015 (updated with minor technical clarifications on 9 March 2016) concerning the methods of operation and the composition of the Technical Commission for data processing of the Administrative Commission for the coordination of social security systems;<sup>(15)</sup>
- Recommendation H1 of 19 June 2013 concerning the Gottardo judgment, according to which the advantages enjoyed by a State's own nationals under a bilateral convention on social security with a non-member country must also be granted to workers who are nationals of other Member States.<sup>(16)</sup>

Pensions (P series):

- Decision P1 of 12 June 2009 on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-age and survivors' benefits.<sup>(17)</sup>

Recovery (R series):

- Decision R1 of 20 June 2013 concerning the interpretation of Article 85 of Regulation (EC) No 987/2009.<sup>(18)</sup>

## Sickness (S series):

- Decision S1 of 12 June 2009 concerning the European Health Insurance Card;<sup>(19)</sup>
- Decision S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card;<sup>(20)</sup>
- Decision S3 of 12 June 2009 defining the benefits covered by Articles 19(1) and 27(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council and Article 25(A)(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council;<sup>(21)</sup>
- Decision S5 of 2 October 2009 on interpretation of the concept of "benefits in kind" as defined in Article 1(va) of Regulation (EC) No 883/2004 of the European Parliament and of the Council in the event of sickness or maternity pursuant to Articles 17, 19, 20, 22, 24(1), 25, 26, 27(1, 3, 4 and 5), 28, 34 and 36(1 and 2) of Regulation (EC) No 883/2004 and on calculation of the amounts to be refunded under Articles 62, 63 and 64 of Regulation (EC) No 987/2009 of the European Parliament and of the Council;<sup>(22)</sup>
- Decision S6 of 22 December 2009 concerning the registration in the Member State of residence under Article 24 of Regulation (EC) No 987/2009 and the compilation of the inventories provided for in Article 64(4) of Regulation (EC) No 987/2009;<sup>(23)</sup>
- Decision S8 of 15 June 2011 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 33 of Regulation (EC) No 883/2004 on the coordination of social security systems;<sup>(24)</sup>
- Decision S9 of 20 June 2013 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004;<sup>(25)</sup>
- Decision S10 of 19 December 2013 concerning the transition from Regulations (EEC) Nos 1408/71 and 574/72 to Regulations (EC) Nos 883/2004 and 987/2009 and the application of reimbursement procedures;<sup>(26)</sup>
- Recommendation S1 of 15 March 2012 concerning financial aspects of cross-border living organ donations;<sup>(27)</sup>
- Recommendation S2 of 22 October 2013 concerning the entitlement to benefits in kind for insured persons and members of their family during a stay in a third country under a bilateral convention between the competent Member State and the third country.<sup>(28)</sup>

## Unemployment (U series):

- Decision U1 of 12 June 2009 concerning Article 54(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council relating to increases in unemployment benefit for dependent members of the family;<sup>(29)</sup>
- Decision U2 of 12 June 2009 concerning the scope of Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the right to unemployment benefits of wholly unemployed persons other than frontier workers who were resident in the territory of a Member State other than the competent Member State during their last period of employment or self-employment;<sup>(30)</sup>
- Decision U3 of 12 June 2009 concerning the scope of the concept of "partial unemployment" applicable to the unemployed persons referred to in Article 65(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council;<sup>(31)</sup>
- Decision U4 of 13 December 2011 concerning the reimbursement procedures under Article 65(6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009;<sup>(32)</sup>

- Recommendation U1 of 12 June 2009 concerning the legislation applicable to unemployed persons engaging in part-time professional or trade activity in a Member State other than the State of residence;<sup>(33)</sup>
- Recommendation U2 of 12 June 2009 concerning the application of Article 64(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council to unemployed persons accompanying their spouses or partners pursuing a professional or trade activity in a Member State other than the competent State.<sup>(34)</sup>

## PART II

### ACTS REFERRED TO

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems,<sup>(35)</sup> as amended by:

- Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009;<sup>(36)</sup>
- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>(37)</sup>
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>(38)</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>(39)</sup>
- Council Regulation (EU) No 517/2013 of 13 May 2013;<sup>(40)</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013,<sup>(41)</sup> as amended by Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>(42)</sup>
- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>(43)</sup>

Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems<sup>(44)</sup>, as amended by:

- Commission Regulation (EU) No 1244/2010 of 9 December 2010;<sup>(45)</sup>
- Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012;<sup>(46)</sup>
- Commission Regulation (EU) No 1224/2012 of 18 December 2012;<sup>(47)</sup>
- Commission Regulation (EU) No 1372/2013 of 19 December 2013;<sup>(48)</sup>
- Commission Regulation (EU) No 1368/2014 of 17 December 2014;<sup>(49)</sup>
- Commission Regulation (EU) 2017/492 of 21 March 2017.<sup>(50)</sup>

## PART III

### ADAPTATIONS TO REGULATION (EC) NO 883/2004 AND REGULATION (EC) NO 987/2009

The provisions of Regulation (EC) No 883/2004 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex II:  
"UNITED KINGDOM-GERMANY

(a) Article 7(5) and (6) of the Convention on social security of 20 April 1960 (legislation applicable to civilians serving in the military forces);

(b) Article 5(5) and (6) of the Convention on unemployment insurance of 20 April 1960 (legislation applicable to civilians serving in the military forces).  
UNITED KINGDOM-IRELAND

Article 19(2) of the Agreement of 14 December, 2004 on social security (concerning the transfer and reckoning of certain disability credits).";

(b) the following shall be added to Annex III:

"UNITED KINGDOM";

(c) the following shall be added to Annex VI:  
"UNITED KINGDOM

Employment and Support Allowance (ESA)

(a) For awards granted before 1 April 2016 ESA is a cash sickness benefit for the initial 91 days (Assessment Phase). From the 92nd day ESA (Main Phase) becomes an invalidity benefit.

(b) For awards granted on or after 1 April 2016 ESA is a cash sickness benefit for the initial 365 days (Assessment Phase). From the 366th day ESA (Support Group) becomes an invalidity benefit.

Great Britain legislation: Part 1 of the Welfare Reform Act 2007.

Northern Ireland legislation: Part 1 of the Welfare Reform Act (Northern Ireland) 2007.";

(d) the following shall be added to Part 1 of Annex VIII:  
"UNITED KINGDOM

All applications for retirement pension, state pension pursuant to Part 1 of the Pensions Act 2014, widows' and bereavement benefits, with the exception of those for which during a tax year beginning on or after 6 April 1975:

(i) the party concerned had completed periods of insurance, employment or residence under the legislation of the United Kingdom and another Member State; and one (or more) of the tax years was not considered a qualifying year within the meaning of the legislation of the United Kingdom;

(ii) the periods of insurance completed under the legislation in force in the United Kingdom for the periods prior to 5 July 1948 would be taken into account for the purposes of Article 52(1)(b) of the Regulation by application of the periods of insurance, employment or residence under the legislation of another Member State.

All applications for additional pension pursuant to the Social Security Contributions and Benefits Act 1992, section 44, and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, section 44.";

(e) the following shall be added to Part 2 of Annex VIII:  
"UNITED KINGDOM

Graduated retirement benefits paid pursuant to the National Insurance Act 1965, sections 36 and 37, and the National Insurance Act (Northern Ireland) 1966, sections 35 and 36.";

- (f) the following shall be added to Annex X:  
"UNITED KINGDOM
- (a) State Pension Credit (State Pension Credit Act 2002 and State Pension Credit Act (Northern Ireland) 2002);
  - (b) Income-based allowances for jobseekers (Jobseekers Act 1995 and Jobseekers (Northern Ireland) Order 1995);
  - (d) Disability Living Allowance mobility component (Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992);
  - (e) Employment and Support Allowance Income-related (Welfare Reform Act 2007 and Welfare Reform Act (Northern Ireland) 2007).";
- (g) the following shall be added to Annex XI:  
"UNITED KINGDOM
1. Where, in accordance with United Kingdom legislation, a person may be entitled to a retirement pension if:
    - (a) the contributions of a former spouse are taken into account as if they were that person's own contributions; or
    - (b) the relevant contribution conditions are satisfied by that person's spouse or former spouse, then provided, in each case, that the spouse or former spouse is or had been exercising an activity as an employed or self-employed person, and had been subject to the legislation of two or more Member States, the provisions of Chapter 5 of Title III of this Regulation shall apply in order to determine entitlement under United Kingdom legislation. In this case, references in the said Chapter 5 to "periods of insurance" shall be construed as references to periods of insurance completed by:
      - (i) a spouse or former spouse where a claim is made by:
        - a married woman, or
        - a person whose marriage has terminated otherwise than by the death of the spouse; or
      - (ii) a former spouse, where a claim is made by:
        - a widower who immediately before pensionable age is not entitled to widowed parent's allowance, or
        - a widow who immediately before pensionable age is not entitled to widowed mother's allowance, widowed parent's allowance or widow's pension, or who is only entitled to an age-related widow's pension calculated pursuant to Article 52(1)(b) of this Regulation, and for this purpose 'age-related widow's pension' means a widow's pension payable at a reduced rate in accordance with section 39(4) of the Social Security Contributions and Benefits Act 1992.

2. For the purposes of applying Article 6 of this Regulation to the provisions governing entitlement to attendance allowance, carer's allowance and disability living allowance, a period of employment, self-employment or residence completed in the territory of a Member State other than the United Kingdom shall be taken into account insofar as is necessary to satisfy conditions as to required periods of presence in the United Kingdom, prior to the day on which entitlement to the benefit in question first arises.
3. For the purposes of Article 7 of this Regulation, in the case of invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants, any beneficiary under United Kingdom legislation who is staying in the territory of another Member State shall, during that stay, be considered as if he resided in the territory of that other Member State.
4. Where Article 46 of this Regulation applies, if the person concerned suffers incapacity for work leading to invalidity while subject to the legislation of another Member State, the United Kingdom shall, for the purposes of Section 30A (5) of the Social Security Contributions and Benefits Act 1992, take account of any periods during which the person concerned has received, in respect of that incapacity for work:
  - (i) cash sickness benefits or wages or salary in lieu thereof; or
  - (ii) benefits within the meaning of Chapters 4 and 5 of Title III of this Regulation granted in respect of the invalidity which followed that incapacity for work, under the legislation of the other Member State, as though they were periods of short-term incapacity benefit paid in accordance with Sections 30A (1)-(4) of the Social Security Contributions and Benefits Act 1992.

In applying this provision, account shall only be taken of periods during which the person would have been incapable of work within the meaning of United Kingdom legislation.

5.
  - (1) For the purpose of calculating an earnings factor in order to determine entitlement to benefits under United Kingdom legislation, for each week of activity as an employed person under the legislation of another Member State, and which commenced during the relevant income tax year within the meaning of United Kingdom legislation, the person concerned shall be deemed to have paid contributions as an employed earner, or have earnings on which contributions have been paid, on the basis of earnings equivalent to two-thirds of that year's upper earnings limit.
  - (2) For the purposes of Article 52(1)(b)(ii) of this Regulation, where:
    - (a) in any income tax year starting on or after 6 April 1975, a person carrying out activity as an employed person has completed periods of insurance, employment or residence exclusively in a Member State other than the United Kingdom, and the application of point 5(1) above results in that year being counted as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, he shall be deemed to have been insured for 52 weeks in that year in that other Member State;

- (b) any income tax year starting on or after 6 April 1975 does not count as a qualifying year within the meaning of United Kingdom legislation for the purposes of Article 52(1)(b)(i) of this Regulation, any periods of insurance, employment or residence completed in that year shall be disregarded.
- (3) For the purpose of converting an earnings factor into periods of insurance, the earnings factor achieved in the relevant income tax year within the meaning of United Kingdom legislation shall be divided by that year's lower earnings limit. The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated shall be treated as representing the number of weeks of insurance completed under United Kingdom legislation during that year, provided that such figure shall not exceed the number of weeks during which in that year the person was subject to that legislation."

The provisions of Regulation (EC) No 987/2009 shall, for the purposes of this Agreement, be adapted as follows:

- (a) the following shall be added to Annex 1:
  - "UNITED KINGDOM-BELGIUM
    - (a) The Exchange of Letters of 4 May and 14 June 1976 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)
    - (b) The Exchange of Letters of 18 January and 14 March 1977 regarding Article 36(3) of Regulation (EEC) No 1408/71 (arrangement for reimbursement or waiving of reimbursement of the costs of benefits in kind provided under the terms of Chapter 1 of Title III of Regulation (EEC) No 1408/71) as amended by the Exchange of Letters of 4 May and 23 July 1982 (agreement for reimbursement of costs incurred under Article 22(1)(a) of Regulation (EEC) No 1408/71)
  - UNITED KINGDOM-DENMARK
    - The Exchange of Letters of 30 March and 19 April 1977 as modified by an Exchange of Letters of 8 November 1989 and of 10 January 1990 on agreement of waiving of reimbursement of the costs of benefits in kind and administrative checks and medical examinations
  - UNITED KINGDOM-ESTONIA
    - The Arrangement finalised on 29 March 2006 between the Competent Authorities of the Republic of Estonia and of the United Kingdom under Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 establishing other methods of reimbursement of the costs of benefits in kind provided under this Regulation by both countries with effect from 1 May 2004
  - UNITED KINGDOM-IRELAND
    - The Exchange of Letters of 9 July 1975 regarding Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 (arrangement for reimbursement or waiving of reimbursement of the costs of benefits in kind provided under the terms of Chapter 1 or 4 of Title III of Regulation (EEC) No 1408/71) and Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)
  - UNITED KINGDOM-SPAIN

The Agreement of 18 June 1999 on the reimbursement of costs for benefits in kind granted pursuant to the provisions of Regulations (EEC) No 1408/71 and (EEC) No 574/72

UNITED KINGDOM-FRANCE

- (a) The Exchange of Letters of 25 March and 28 April 1997 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs of administrative checks and medical examinations)
- (b) The Agreement of 8 December 1998 on the specific methods of determining the amounts to be reimbursed for benefits in kind pursuant to Regulations (EEC) No 1408/71 and (EEC) No 574/72

UNITED KINGDOM-ITALY

The Arrangement signed on 15 December 2005 between the Competent Authorities of the Italian Republic and of the United Kingdom under Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 establishing other methods of reimbursement of the costs of benefits in kind provided under this Regulation by both countries with effect from 1 January 2005

UNITED KINGDOM-LUXEMBOURG

The Exchange of Letters of 18 December 1975 and 20 January 1976 regarding Article 105(2) of Regulation (EEC) No 574/72 (waiving of reimbursement of the costs entailed in administrative checks and medical examinations referred to in Article 105 of Regulation (EEC) No 574/72)

UNITED KINGDOM-HUNGARY

The Arrangement finalised on 1 November 2005 between the Competent Authorities of the Republic of Hungary and of the United Kingdom under Articles 35(3) and 41(2) of Regulation (EEC) No 883/2004 establishing other methods of reimbursement of the costs of benefits in kind provided under that Regulation by both countries with effect from 1 May 2004

UNITED KINGDOM-MALTA

The Arrangement finalised on 17 January 2007 between the Competent Authorities of Malta and of the United Kingdom under Articles 35(3) and 41(2) of Regulation (EEC) No 883/2004 establishing other methods of reimbursement of the costs of benefits in kind provided under that Regulation by both countries with effect from 1 May 2004

UNITED KINGDOM-NETHERLANDS

The second sentence of Article 3 of the Administrative Arrangement of 12 June 1956 on the implementation of the Convention of 11 August 1954

UNITED KINGDOM-PORTUGAL

The Arrangement of 8 June 2004 establishing other methods of reimbursement of the costs of benefits in kind provided by both countries with effect from 1 January 2003

UNITED KINGDOM-FINLAND

The Exchange of Letters 1 and 20 June 1995 concerning Articles 36(3) and 63(3) of Regulation (EEC) No 1408/71 (reimbursement or waiving of reimbursement of the cost of benefits in kind) and Article 105(2) of Regulation (EEC) 574/72 (waiving of reimbursement of the cost of administrative checks and medical examinations)

UNITED KINGDOM-SWEDEN

The Arrangement of 15 April 1997 concerning Article 36(3) and Article 63(3) of Regulation (EEC) No 1408/71 (reimbursement or waiving of reimbursement of the cost of benefits in kind) and Article 105(2) of Regulation (EEC) No 574/72 (waiving of refunds of the costs of administrative checks and medical examinations)";

(b) the following shall be added to Annex 3:

"UNITED KINGDOM".

## ANNEX II

### PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 41(4)

1. Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine<sup>(51)</sup>.
2. Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals<sup>(52)</sup>.
3. Chapter II of Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae<sup>(53)</sup>.
4. Chapter II of Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs<sup>(54)</sup>.
5. Chapter II of Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC<sup>(55)</sup>.
6. Chapter II of Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species<sup>(56)</sup>.
7. Chapter II of Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species<sup>(57)</sup>.
8. Chapter II of Council Directive 90/429/EEC of 26 June 1990 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species<sup>(58)</sup>.
9. Chapter III of Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals<sup>(59)</sup>.
10. Chapter II of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003<sup>(60)</sup>.

## ANNEX III

## TIME LIMITS FOR THE SITUATIONS OR CUSTOMS PROCEDURES REFERRED TO IN ARTICLE 49(1)

The time limits set out in this Annex are the relevant end dates for the application of Regulation (EU) No 952/2013.

| Situation / procedure                  | Time limit   |
|--|--|
| <b>1. Temporary storage</b>            | <b>90 days</b> , Article 149 of Regulation (EU) No 952/2013  |
| <b>2. Release for free circulation</b> | 1 month + 10 days after acceptance of the declaration, Article 146(3) of Delegated Regulation (EU) 2015/2446 <sup>a</sup> concerning the supplementary declaration; "reasonable period of time" as regards verification, Article 194 of Regulation (EU) No 952/2013<br><b>Maximum: 60 days</b>   |
| <b>3. Special procedures</b>           | Period for discharge is obligatory for inward processing, outward processing, end-use and temporary admission (D.E. 4/17 in Annex A to Delegated Regulation (EU) 2015/2446). Discharge by placing under a subsequent customs procedure, taking out of the customs territory or being destroyed, Article 215(1) of Regulation (EU) No 952/2013. |
| <b>(a) Union transit</b>               | <b>Maximum: 12 months after release</b>  |
| <b>(b) Customs warehousing</b>         | <b>Maximum: 12 months after the end of the transition period</b>   |
| <b>(c) Free zones</b>                  | <b>At the end of the transition period</b>   |
| <b>(d) Temporary admission</b>         | <b>Maximum: 12 months after release</b>  |
| <b>(e) End-use</b>                     | <b>Maximum: 12 months after release</b>  |
| <b>(f) Inward processing</b>           | <b>Maximum: 12 months after release</b>  |
| <b>(g) Outward processing</b>          | <b>Maximum: 12 months after release</b>  |
| <b>4. Export</b>                       | <b>150 days after release</b>  |
| <b>5. Re-export</b>                    | <b>150 days after release</b>  |
| <sup>a</sup>                           | Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).   |

## ANNEX IV

## LIST OF NETWORKS, INFORMATION SYSTEMS AND DATABASES REFERRED IN ARTICLES 50, 53, 99 AND 100

1. Backwards compatibility for the United Kingdom and the Union shall be established to ensure that, for any changes that are made to the networks, information systems

and databases, as well as for any changes to formats for exchanging information, the Member States and the United Kingdom can continue to accept each other's information in the current format, unless the Union and the United Kingdom agree otherwise.

2. The United Kingdom's access to any given network, information system or database shall be limited in time. The respective time period is indicated for each network, information system or database. Where exchanges of information between customs authorities would be required for the implementation of procedures in accordance with Article 49 once electronic data-processing is no longer possible in accordance with this Annex, alternative means for the exchange and storage of information shall be used.

| Part I: | Customs IT system                                | Type of access   | Time limit      |
|---------|--|--|-----------------|
| Customs | <b>ICS</b><br>(Import Control System)            | Lodgement of the pre-arrival declaration limited to:<br>— Receiving and sending entry summary declaration (ENS) data on declarations lodged before the end of the transition period (in the case of subsequent ports or diversion);<br>— Receiving and sending risk data on those declarations lodged before the end of the transition period. | 31 July 2021    |
|         | <b>NCTS</b><br>(New Computerised Transit System) | All functionalities applied to ongoing transit operations, i.e. movements released for transit before the end of the transition period. [No release of new transit operations after the end of the transition period.]   | 31 January 2021 |
|         | <b>ECS</b><br>(Export Control System)            | <b>Confirmation of exit for ongoing export operations</b> , i.e. goods released for export before the end of the transition period:<br>— For operations with the customs   | 31 January 2021 |

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|  |            |   |                  |
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|  | —          | offices of exit in the United Kingdom to confirm in ECS the exit of the goods;<br>For operations with the customs offices of exit in Member States, i.e. the customs offices of export in the United Kingdom to receive the confirmations of exit from the Member States' customs offices of exit.  |                  |
| <b>INF</b><br>(Information Sheet)  | —<br><br>— | Read only access to INF Specific Trader Portal for United Kingdom traders;<br>Read/write access to active INFs in INF system for customs offices.   | 31 December 2021 |
| <b>SURV-RECAPP</b><br>(Tariff Surveillance System – Receiving Application) | —<br><br>— | <b>Transmission by the United Kingdom's customs authorities of data elements for release for free circulation (RFC) or export procedures:</b><br>Surveillance Declaration Records (SDRs) not yet transmitted for RFC or export procedures under which the goods were placed before the end of the transition period;<br>SDRs elements for RFC ending or discharging | 28 February 2021 |

|   |   |                  |
|---|---|------------------|
|   | an ongoing procedure or situation.  |                  |
| <b>EBTI3</b><br>(European Binding Tariff Information)   | <b>Input for the calculation of customs debt:</b><br>Access to information pertaining to decisions related to BTI or any subsequent event which may affect the original application or decision [full access for consultation]. | 8 January 2021   |
| <b>TARIC3</b><br>(Integrated Customs Tariff of the Community)   | <b>Input for the calculation of customs debt:</b><br>Transmissions of daily updates to the United Kingdom after the end of the transition period, with the exception of confidential data (statistical surveillance data).      | 31 December 2021 |
| <b>QUOTA2</b><br>(System for Managing Tariff Quotas, Ceilings and other Surveillances)  | <b>Input for the calculation of customs debt:</b><br>Management of quotas, cancellation of requests for quotas and returns of unused allocated quantities.  | 6 January 2021   |
| <b>SMS TRA, EXP</b><br>(Specimen Management System)   | Read-only access to the database with specimens of stamps, seals and certificates.  | 31 January 2021  |
| <b>SMS QUOTA</b><br>(Specimen Management System)  | Read-only access to the database with certificates of authenticity necessary in order to benefit from the quotas.   | 6 January 2021   |
| <b>OWNRES</b><br>(Own Resources reporting of cases of fraud and irregularities involving traditional own resources (TOR) in excess of EUR 10 000, Article 5(1) of Regulation (EU, Euratom) No 608/2014) | Limited access restricted to cases involving the United Kingdom (no access to global analyses).   | 20 February 2026 |

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|--|--|--------------|
| <b>WOMIS</b><br>(Write-off management information system for TOR case-reports under Article 13(3) of Regulation (EU, Euratom) No 609/2014) | Full access, as by default already limited to national write-off reports (read-only access as from 1 July 2025 in the framework of the liquidation of the separate account by 31 December 2025). | 30 June 2025 |
|--|--|--------------|

| Supporting system   | Type of access   | Time limit       |
|---|--|------------------|
| <b>EOS/EORI</b><br>(Economic Operators System – Economic Operators Registration and Identification) | Read-only access for the related systems.  | 31 December 2021 |
| <b>CDS</b><br>(Customs Decisions System)  | Read-only access for traders in the United Kingdom and for customs offices in the United Kingdom.  | 31 January 2021  |
| <b>CS/RD2</b><br>(Central Services/Reference Data)  | Read-only access for Reference Data;<br>Write access for customs offices of NA-UK only.  | 31 December 2021 |
| <b>CS/MIS</b><br>(Central Services/Management Information System)                                   | Write-only access for uploading unavailabilities and business statistics.  | 31 July 2021     |
| <b>GTP</b><br>(Generic Trader Portal)   | Access to the generic functions of the portal for traders in the United Kingdom until the last Specific Trader Portal is switched off for traders in the United Kingdom. | 31 December 2021 |

| Network and infrastructure  | Type of access                                | Time limit  |
|---|---|---|
| <b>CCN</b><br>(Common Communication Network)                          | Linked to the access for the related systems. | 31 December 2021 (or longer if required for excise or taxation) |
| <b>UUM&amp;DS</b><br>(Uniform User Management and Digital Signatures) | Linked to the access for the related systems. | 31 December 2021 (or longer if required for excise or taxation) |
| <b>CCN2</b><br>(Common Communication Network 2)                       | Linked to the access for the related systems. | 31 December 2021 (or longer if required for excise or taxation) |

| Part II:<br>Excise | Excise IT system | Type of access | Time limit |
|--------------------|------------------|----------------|------------|
|--------------------|------------------|----------------|------------|

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|---|---|------------------|
| <b>EMCS Core</b><br>(Excise Movement Control System)                                  | Duty suspension: Transmissions to and from the United Kingdom of reports of receipt / reports of export (IE818).  | 31 May 2021      |
| <b>EMCS Admin Coop</b><br>(Excise Movement Control System Administrative Cooperation) | — Transmissions to and from the United Kingdom of messages relating to open movements (event reports, control reports, administrative cooperation (enquiries on open EMCS movements); | 31 May 2021      |
|   | — Member States and the United Kingdom shall keep EMCS Administrative Cooperation online to allow queries and audits on movements up to the end of the transition period.             | 31 December 2024 |

| Supporting system  | Type of access   | Time limit  |
|--|--|-------------|
| <b>SEED</b><br>(System for the Exchange of Excise Data)                      | Read only, with United Kingdom's economic operators invalidated. | 31 May 2021 |
| <b>CS/MISE</b><br>(Central Services/ Management Information System for EMCS) | Filtered to restrict to movements involving the United Kingdom.  | 31 May 2021 |

  

| Network and infrastructure                   | Type of access                                | Time limit   |
|--|---|--|
| <b>CCN</b><br>(Common Communication Network) | Linked to the access for the related systems. | 31 May 2021 (or longer if required for excise or taxation) |

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| Part III:<br>VAT | VAT IT system  | Type of access   | Time limit                    |
|------------------|--|--|-------------------------------|
|                  | <b>VAT-VIES</b><br>(VAT Information Exchange System) | <b>Taxable persons registration information:</b><br>Reciprocal access to the IT systems, by the United Kingdom and the Member States <sup>a</sup> , to exchange, until 31 December 2024, historical registration information of the other party <sup>b</sup> (registration data entered in the system before the end of the transition period) as well as registration information of the other party updated after the transition period (e.g. ending of registration of a taxable person).                   | 31 December 2024 <sup>c</sup> |
|                  |  | <b>Transactions - turnover information:</b><br>Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to exchange information contained in recapitulative statements submitted to the other party for transactions that took place <sup>d</sup> before the end of the transition period and where taxable persons of the receiving party are involved;<br>The United Kingdom and the Member States shall have no access to each other's turnover information related to | 31 December 2024              |

**a** For the purposes of this Annex, "reciprocal access" means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.

**b** For the purposes of this Annex, "other party" means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.

**c** The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.

**d** Including transactions covered by Article 51(1).

**e** For the purposes of this indent, "handle" means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system.

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|            |  |                 |
|------------|--|-----------------|
|            | transactions that take place after 31 December 2020.   |                 |
| VAT Refund | <p>Access to the IT system to:</p> <p>— Forward to the Member States the VAT refund applications submitted by taxable persons established in the United Kingdom in accordance with Directive 2008/9/EC and to receive from the Member States the VAT refund applications submitted by taxable persons established in a Member State;</p> | 30 April 2021   |
|            | <p>— Handle<sup>c</sup> VAT refund applications received by the United Kingdom and submitted by taxable persons established in a Member State and VAT refund applications received by the Member States</p>  | 31 January 2022 |

**a** For the purposes of this Annex, "reciprocal access" means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.

**b** For the purposes of this Annex, "other party" means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.

**c** The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.

**d** Including transactions covered by Article 51(1).

**e** For the purposes of this indent, "handle" means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system.

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|                                     |  |                  |
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|                                     | and submitted by taxable persons established in the United Kingdom.  |                  |
| <b>MOSS</b><br>(Mini-One-Stop-Shop) | <b>Registration Information:</b><br>Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:                          |                  |
|                                     | — Exchange the registration and historical registration information;   | 31 December 2024 |
|                                     | — Disseminate information relating to new MOSS registrations, for registrations, the effective date of registration of which is before or on 31 December 2020. | 20 February 2021 |
|                                     | <b>VAT Return:</b><br>Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:  |                  |
|                                     | — Exchange MOSS return information, for returns  | 20 February 2021 |

**a** For the purposes of this Annex, "reciprocal access" means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.

**b** For the purposes of this Annex, "other party" means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.

**c** The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.

**d** Including transactions covered by Article 51(1).

**e** For the purposes of this indent, "handle" means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system.

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|          |   |                  |
|----------|---|------------------|
|          | submitted before or on 31 January 2021;   |                  |
| —        | Exchange amendments relating to MOSS VAT returns submitted before or on 20 January 2021;  | 20 January 2022  |
| —        | Exchange VAT return information for transactions where the other party is involved;   | 31 December 2024 |
| —        | The United Kingdom and the Member States shall have no access to each other's VAT return information of transactions that take place after 31 December 2020.  |                  |
|          | <b>Payment information:</b><br>Access to the IT systems, by the United Kingdom and the Member States with reciprocal access, to:  |                  |
| <b>a</b> | For the purposes of this Annex, "reciprocal access" means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.  |                  |
| <b>b</b> | For the purposes of this Annex, "other party" means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.  |                  |
| <b>c</b> | The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.  |                  |
| <b>d</b> | Including transactions covered by Article 51(1).  |                  |
| <b>e</b> | For the purposes of this indent, "handle" means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system. |                  |

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|   |   |                  |
|---|---|------------------|
| — | Exchange payment information relating to payments received from MOSS registered businesses before or on 31 January 2021;  | 20 February 2021 |
| — | In respect of taxable transactions in the other party, exchange information relating to reimbursements or payments for amendments relating to MOSS VAT returns submitted before or on 31 December 2021. | 20 January 2022  |

- a** For the purposes of this Annex, "reciprocal access" means that the United Kingdom must ensure that Member States have the same access to such data in the United Kingdom as the United Kingdom and the Member States have to such data in the Member States.
- b** For the purposes of this Annex, "other party" means, with respect to the United Kingdom, a Member State and, with respect to a Member State, the United Kingdom.
- c** The United Kingdom's data concerning the VAT identification numbers of its taxable persons must be updated until 31 December 2024.
- d** Including transactions covered by Article 51(1).
- e** For the purposes of this indent, "handle" means completing all actions in respect of a claim to allow it to be finalised, including notification of any disallowed amounts, along with details of how to appeal, and repayment of any allowable amounts, along with the exchange of any relevant messages with the VAT Refund system.

| Supporting system   | Type of access   | Time limit       |
|---|--|------------------|
| <b>CCN/eFCA<br/>Administrative cooperation<br/>VAT</b><br>(Common Communications Network/eForm Central Application) | Transmissions between the United Kingdom and the Member States of requests – and follow-up to these requests – with regard to administrative cooperation for VAT purposes. | 31 December 2024 |
| <b>TIC VAT Refund preferences</b>   | Access by the United Kingdom in order to update  | 31 March 2021    |

|   | the United Kingdom's VAT refund preferences                        |  |                                |
|---|--|--|--------------------------------|
| Part IV:<br>Tax and<br>duty<br>recovery<br>assistance | Supporting system<br><b>CCN/eFCA</b><br><b>Recovery assistance</b> | Type of access<br>Transmissions between the United Kingdom and the Member States of requests – and follow-up of these requests – with regard to recovery assistance. | Time limit<br>31 December 2025 |

## ANNEX V

## EURATOM

This annex sets out the categories of community equipment and other property related to the provision of safeguards located in the United Kingdom under the Euratom Treaty which shall become property of the United Kingdom at the end of the transition period.

At the end of the transition period, the European Commission shall transmit to the United Kingdom the final inventory of Euratom equipment and other property transferred.

In accordance with Article 84(1) and Article 148, the United Kingdom shall reimburse to the Union the value of that equipment and other property, calculated based on the value assigned to that equipment and other property in the consolidated accounts for the year 2020. The said value shall be communicated by European Commission to the United Kingdom upon its final regulatory approval.

The Euratom equipment is located at:

- **Sellafield**<sup>(61)</sup>, the UK nuclear fuel reprocessing site;
- **Dounreay**<sup>(62)</sup>, the UK's former centre of fast reactor research and development;
- **Sizewell**<sup>(63)</sup>, a site with two nuclear power stations, Sizewell A (not in operation) and Sizewell B, a pressurised water reactor still in operation;
- **Capenhurst**<sup>(64)</sup>, a uranium enrichment plant;
- **Springfields**<sup>(65)</sup>, a fuel fabrication plant;
- Other reactors, research, medical and other facilities, where safeguards equipment is being used.

The Euratom equipment comprises various elements consisting of fixed installations and related devices necessary for the use of these fixed installations and forming an inherent part of the whole system installed:

1. Seals:
  - Metal seals for single use;
  - Fibre optic seals for single and multiple use; and
  - Seal readers.
2. Surveillance equipment:

- Digital and analogue single and multiple component safeguards surveillance systems.
3. Measurement equipment (non-destructive assay):
- Various types of gamma detectors with pre-amplifiers and counting electronics for gamma measurements;
  - Various types of neutron detectors with pre-amplifiers and counting electronics for neutron measurements; as well as
  - Equipment for fresh and spent fuel assembly, Uranium drum and Plutonium can content measurements including rod and fuel assembly scanners, balances and load cells.
4. Laboratory equipment (forming part of the on-site laboratory at Sellafield):
- Mass spectrometer (TIMS);
  - gamma and X-ray based measurement instruments (e.g. K-edge densitometry and XRF); and
  - Gloveboxes with analytical equipment including densitometer and analytical balances.
- To facilitate the most effective handover of this equipment, the United Kingdom and the Community shall make the necessary legal arrangements to release the Community from its obligations and liabilities under its agreement dated 25 March 1994 with British Nuclear Fuels PLC (now Sellafield Ltd).
5. Computer and related equipment (in offices and measurements systems):
- Personal computers as well as related equipment including remote data transmission infrastructure (battery packs and power supplies, hardware devices to allow to control multiple computers, network equipment including fibre optics, Ethernet cables and converters, switches, serial servers, virtual private network router, time and domain controller, cabinets); as well as
  - Related servers, screens and printers.

## ANNEX VI

### LIST OF ADMINISTRATIVE COOPERATION PROCEDURES REFERRED TO IN ARTICLE 98

1. Administrative cooperation between the Member States related to supplier's declarations on the origin of goods, established for the purpose of preferential trade between the Union and certain countries (Articles 61 to 66 of Implementing Regulation (EU) 2015/2447).
2. For the verification of proofs of origin issued by third country authorities or agencies authorised by them (special non-preferential import arrangements) (Article 59 of Implementing Regulation (EU) 2015/2447) and for the verification of proofs of origin issued or made out by third country authorities or exporters (preferential arrangements) (Articles 108 to 111 and 125 of Implementing Regulation (EU) 2015/2447, Article 32 of Annex II to Regulation (EU) 2016/1076 of the European Parliament and of the Council, Article 55 of Annex VI to Council Decision 2013/755/EU and the equivalent provisions in preferential agreements).

3. Mutual assistance in the framework of the recovery of a customs debt (Articles 101(1) and Articles 102(1) of the Regulation (EU) No 952/2013, Article 165 of Implementing Regulation (EU) 2015/2447).
4. Mutual assistance in the framework of transfer of the amount of customs debt by the Member State which has accepted a guarantee to the Member State where the customs debt is incurred (point (c) of Article 92(1) of Regulation (EU) No 952/2013, Article 153 of Implementing Regulation (EU) 2015/2447).
5. Verification of proofs of Union status (and administrative assistance) (Article 153 of Regulation (EU) No 952/2013, Article 212 of Implementing Regulation (EU) 2015/2447).
6. Communication between authorities relating to returned goods (Article 203 of Regulation (EU) No 952/2013, Article 256 of Implementing Regulation (EU) 2015/2447).
7. Administrative cooperation in the framework of the recovery of other charges for goods placed under temporary admission according to the ATA Convention or the Istanbul Convention (point (c) of Article 226(3) of Regulation (EU) No 952/2013, Article 170 of Implementing Regulation (EU) 2015/2447).
8. Mutual assistance for obtaining supplementary information in order to decide on an application for remission or repayment (Articles 22 and 116(1) of Regulation (EU) No 952/2013, Article 175 of Implementing Regulation (EU) 2015/2447).
9. Verification and administrative assistance for post-release controls of the information related to the Union transit operation (Article 48 of Regulation (EU) No 952/2013, Article 292 of Implementing Regulation (EU) 2015/2447).
10. Administrative cooperation in the framework of the recovery of other charges under transit procedures (points (a), (b) and (c) of Article 226(3) of Regulation (EU) No 952/2013, Articles 167 and 169 of Implementing Regulation (EU) 2015/2447).
11. Notification of recovery of duties and other charges under the Union transit procedure or under transit according to the TIR Convention (points (a) and (b) of Article 226(3) of Regulation (EU) No 952/2013, Article 168 of Implementing Regulation (EU) 2015/2447).
12. Direct cooperation and exchange of information between Member States concerning export controls on dual-use items (Article 19(2) of Council Regulation (EC) No 428/2009).

## ANNEX VII

### LIST OF ACTS/PROVISIONS REFERRED TO IN ARTICLE 128(6)

1. Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (without prejudice to Article 96(1) of this Agreement).<sup>(66)</sup>
2. Titles III and IX of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use,<sup>(67)</sup> Regulation (EC) No 1901/2006 of the European Parliament and

of the Council of 12 December 2006 on medicinal products for paediatric use,<sup>(68)</sup> Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products,<sup>(69)</sup> Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products<sup>(70)</sup>, Titles III and VII of Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products,<sup>(71)</sup> Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin,<sup>(72)</sup> Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency,<sup>(73)</sup> Commission Implementing Regulation (EU) No 520/2012 of 19 June 2012 on the performance of pharmacovigilance activities provided for in Regulation (EC) No 726/2004 of the European Parliament and of the Council and Directive 2001/83/EC of the European Parliament and of the Council,<sup>(74)</sup> and Commission Regulation (EC) No 1234/2008 of 24 November 2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products.<sup>(75)</sup>

3. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency.<sup>(76)</sup>
4. Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures.<sup>(77)</sup>
5. Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market,<sup>(78)</sup> and Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin.<sup>(79)</sup>
6. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products.<sup>(80)</sup>
7. Regulation (EU) No 536/2014 of the European Parliament and of the Council of 16 April 2014 on clinical trials on medicinal products for human use.<sup>(81)</sup>
8. Article 16 of Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries.<sup>(82)</sup>
9. Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations.<sup>(83)</sup>
10. Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms,<sup>(84)</sup> point (c) of Article 6(3) of Regulation (EC) No 1829/2003 of the

- European Parliament and of the Council of 22 September 2003 on genetically modified food and feed.<sup>(85)</sup>
11. Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods.<sup>(86)</sup>
  12. Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species.<sup>(87)</sup>
  13. Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed.<sup>(88)</sup>

## ANNEX VIII

### RULES OF PROCEDURE OF THE JOINT COMMITTEE AND SPECIALISED COMMITTEES

#### **Rule 1 Chair**

1. The Joint Committee shall be co-chaired by a Member of the European Commission and a representative of the Government of the United Kingdom at ministerial level, or by high-level officials designated to act as their alternates. The European Union and the United Kingdom shall notify each other in writing of the designated co-chairs and their alternates.
2. The decisions of the co-chairs provided for by these Rules of Procedure shall be taken by mutual consent.
3. A co-chair who is unable to attend a meeting may be replaced for that meeting by a designee. The co-chair, or his or her designee, shall inform in writing the other co-chair and the Secretariat of the Joint Committee of the designation as early as possible.
4. The designee of the co-chair shall exercise the rights of that co-chair to the extent of the designation. Any reference in these Rules of Procedure to the co-chairs shall be understood to include a designee.

#### **Rule 2 Secretariat**

The Secretariat of the Joint Committee (the "Secretariat") shall be composed of an official of the European Commission and an official of the Government of United Kingdom. The Secretariat shall, under the authority of the co-chairs, perform the tasks conferred on it by these Rules of Procedure.

#### **Rule 3 Participation in meetings**

1. Before each meeting, the Union and the United Kingdom shall inform each other through the Secretariat of the intended composition of the delegations.
2. Where appropriate and by decision of the co-chairs, experts or other persons who are not members of delegations may be invited to attend meetings of the Joint Committee in order to provide information on a particular subject.

#### **Rule 4 Meetings**

1. The Joint Committee shall hold its meetings alternately in Brussels and London, unless the co-chairs decide otherwise.
2. By way of derogation from paragraph 1, the co-chairs may decide that a meeting of the Joint Committee be held by videoconference or teleconference.
3. Each meeting of the Joint Committee shall be convened by the Secretariat at a date and place decided by the co-chairs. Where either the Union or the United Kingdom has made a request for a meeting, the Joint Committee shall endeavour to meet within 30 days of such request. In cases of urgency it shall endeavour to meet sooner.

#### **Rule 5 Documents**

Written documents on which the deliberations of the Joint Committee are based shall be numbered and circulated to the Union and the United Kingdom by the Secretariat as documents of the Joint Committee.

#### **Rule 6 Correspondence**

1. The Union and the United Kingdom shall send their correspondence addressed to the Joint Committee to the Secretariat. Such correspondence may be sent in any form of written communication, including by electronic mail.
2. The Secretariat shall ensure that correspondence addressed to the Joint Committee is forwarded to the co-chairs and is circulated, where appropriate, in accordance with Rule 5.
3. All correspondence from or addressed directly to the co-chairs shall be forwarded to the Secretariat and shall be circulated, where appropriate, in accordance with Rule 5.

#### **Rule 7 Agenda for the meetings**

1. For each meeting a draft provisional agenda shall be drawn up by the Secretariat. It shall be transmitted, together with the relevant documents, to the co-chairs no later than 15 days before the date of the meeting.
2. The provisional agenda shall include those items, the inclusion of which in the agenda has been requested by the Union or the United Kingdom. Any such request, together with any relevant document, shall be submitted to the Secretariat no later than 21 days before the beginning of the meeting.
3. No later than 10 days before the date of the meeting, the co-chairs shall decide on the provisional agenda for a meeting. They may decide to make that provisional agenda, or any part thereof, public before the beginning of the meeting.
4. The agenda shall be adopted by the Joint Committee at the beginning of each meeting. On request by the Union or the United Kingdom an item other than those included in the provisional agenda may be included in the agenda by decision of the Joint Committee.
5. In exceptional cases, the co-chairs may decide to derogate from the time limits specified in paragraphs 1 and 2.

#### **Rule 8 Minutes**

1. Draft minutes of each meeting shall be drawn up by the Secretariat, within 21 days from the end of the meeting, unless the co-chairs decide otherwise.

2. The minutes shall, as a rule, summarise each item on the agenda, specifying where applicable:
  - (a) the documents submitted to the Joint Committee;
  - (b) any statement that one of the co-chairs requested to be entered in the minutes; and
  - (c) the decisions adopted, recommendations made, joint statements decided upon and operational conclusions adopted on specific items.
3. The minutes shall include a list of the names, titles and capacity of all individuals who attended the meeting.
4. The minutes shall be approved in writing by the co-chairs within 28 days of the date of the meeting or by any other date decided by the co-chairs. Once approved, two authentic versions of the minutes shall be signed by the members of the Secretariat. The Union and the United Kingdom shall each receive one of these authentic versions. The co-chairs may decide that signing and exchanging electronic copies satisfies this requirement.
5. The Secretariat shall also prepare a summary of the minutes. After having approved the summary, the co-chairs may decide to make it public.

**Rule 9 Decisions and Recommendations**

1. In the period between meetings, the Joint Committee may adopt decisions or recommendations by written procedure, if the co-chairs decide to use this procedure. The written procedure shall consist of an exchange of notes between the co-chairs.
2. Where the Joint Committee adopts decisions or recommendations, the words "Decision" or "Recommendation", respectively, shall be inserted in the title of such acts. The Secretariat shall record any decision or recommendation under a serial number and with a reference to the date of its adoption.
3. Decisions adopted by the Joint Committee shall specify the date at which they take effect.
4. Decisions and recommendations adopted by the Joint Committee shall be signed by the co#chairs and shall be sent by the Secretariat to the parties immediately after the signature.

**Rule 10 Publicity and Confidentiality**

1. Unless otherwise decided by the co-chairs, the meetings of the Joint Committee shall be confidential.
2. Where the Union or the United Kingdom submits information considered as confidential or protected from disclosure under its laws and regulations to the Joint Committee or any specialised committee, the other party shall treat that information received as confidential.
3. Without prejudice to paragraph 2, the Union and the United Kingdom may each decide individually on whether to publish, the decisions and recommendations adopted by the Joint Committee in their respective official publication journals.

**Rule 11 Languages**

1. The official languages of the Joint Committee shall be the official languages of the Union and the United Kingdom.
2. The working language of the Joint Committee shall be English. Unless otherwise decided by the co-chairs, the Joint Committee shall base its deliberations on documents prepared in English.

**Rule 12 Expenses**

1. The Union and the United Kingdom shall each meet any expenses they incur as a result of participating in the meetings of the Joint Committee.
2. Expenditure in connection with the organisation of meetings and reproduction of documents shall be borne by the Union for meetings held in Brussels, and by the United Kingdom for meetings held in London.
3. Expenditure in connection with interpretation to and from the working language of the Joint Committee at meetings shall be borne by the party requesting such interpretation.

**Rule 13 Specialised committees**

1. Without prejudice to paragraphs 2 to 3 of this Rule, Rules 1 to 12 shall apply *mutatis mutandis* to the specialised committees unless decided otherwise by the Joint Committee.
2. The specialised committees shall be co-chaired by representatives designated by the European Commission and the Government of the United Kingdom. The European Union and the United Kingdom shall notify each other of the designated representatives.
3. All information and reports to be provided by a specialised committee pursuant to Article 165(4) of the Agreement shall be submitted to the Joint Committee without undue delay.

**Rule 14 Annual report**

For each calendar year, the annual report on the functioning of the Agreement provided for in Article 164(6) of the Agreement shall be drawn up by the Secretariat by 1 May of the following year. It shall be adopted and signed by the co-chairs.

ANNEX IX

**RULES OF PROCEDURE**

PART A

**RULES OF PROCEDURE FOR DISPUTE SETTLEMENT**

- I. Definitions
  1. For the purposes of these Rules of Procedure, the following definitions shall apply:
    - (a) 'Party' means the Union or the United Kingdom;

- (b) ‘complainant’ means any Party that requests the establishment of an arbitration panel under Article 170 of the Agreement;
- (c) ‘respondent’ means the Party that is alleged to be in violation of a provision of this Agreement;
- (d) ‘representative of a Party’ means a servant of, or any person appointed by a Party who represents that Party for the purposes of a dispute under this Agreement;
- (e) ‘adviser’ means a person designated by a Party to advise or assist that Party in connection with proceedings before an arbitration panel;
- (f) ‘assistant’ means a person who, under the terms of his or her appointment, conducts research for or provides assistance to a member of an arbitration panel under the direction and control of that member.

## II. Notifications

- 2. The following rules shall apply to notifications between the Parties and the arbitration panel:
  - (a) the arbitration panel shall send all requests, notices, written submissions and other documents to both Parties at the same time;
  - (b) where a Party addresses a request, notice, written submission or other document to the arbitration panel, it shall send a copy thereof to the other Party at the same time; and
  - (c) where a Party addresses a request, notice, written submission or other document in relation to the dispute to the other Party, it shall send a copy thereof to the arbitration panel at the same time.
- 3. Any notification referred to in point 2 shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to have been delivered on the date of its sending. All notifications shall be addressed to the Legal Service of the European Commission and to the Legal Adviser of the Foreign and Commonwealth Office of the United Kingdom, respectively.
- 4. The International Bureau of the Permanent Court of Arbitration shall, upon the written request of the Parties or the arbitration panel, act as a channel of communications between the Parties and the arbitration panel.
- 5. Minor errors of a clerical nature in any request, notice, written submission or other document related to the proceedings before the arbitration panel may be corrected by delivery of a new document clearly indicating the changes.
- 6. If the last day for delivery of a document falls on a weekend or legal holiday applicable to the European Commission or to the Foreign and Commonwealth Office of the United Kingdom, as the case may be, the document may be delivered on the next working day. No later than 30 September of each year, the Union and the United Kingdom shall inform each other as well as, in the case referred to in point 4, the International Bureau of the Permanent Court of Arbitration, of the legal holidays applicable to the European Commission and to the Foreign and Commonwealth Office of the United Kingdom, respectively.

## III. Appointment and replacement of members of an arbitration panel

7. If, pursuant to Article 171(5) of the Agreement, one or more members of an arbitration panel are to be selected by lot, the International Bureau of the Permanent Court of Arbitration shall promptly inform the Parties of the date, time and venue of the selection. The Parties may choose to be present during the selection. However, the absence of one or both of the Parties shall not preclude the selection from being carried out.
8. The International Bureau of the Permanent Court of Arbitration shall notify, in writing, each person who has been selected to serve as a member of an arbitration panel of his or her appointment. Each person selected shall, within 5 days from that notification, confirm his or her availability to the International Bureau of the Permanent Court of Arbitration and to both Parties.
9. Where a Party considers that a member of the arbitration panel does not comply with the Code of Conduct set out in Part B and for that reason needs to be replaced, that Party shall notify the other Party within 15 days from the time at which it obtained sufficient evidence of that member's alleged non-compliance.
10. The Parties shall consult each other within 15 days from the notification referred to in point 9. They shall inform the member of the arbitration panel of the alleged non-compliance and may request that member to take steps to remedy the situation. They may also jointly decide to remove that member and to select a new member in accordance with Article 171 of the Agreement.

If the Parties fail to agree on whether to replace a member of the arbitration panel other than its chairperson, either Party may request that this matter be referred to the chairperson of that panel, whose decision shall be final.

If the chairperson of the arbitration panel finds that the member of the arbitration panel does not comply with the Code of Conduct, a new member of the arbitration panel shall be selected in accordance with Article 171 of the Agreement.

11. If the Parties fail to agree on whether to replace the chairperson, either Party may request that this matter be referred to one of the remaining persons who have been jointly proposed by the Union and the United Kingdom to act as chairperson in accordance with the third sentence of Article 171(1) of the Agreement (the 'selected person'). The name of the selected person shall be drawn by lot by the Secretary-General of the Permanent Court of Arbitration.

If the selected person finds that the chairperson does not comply with the Code of Conduct, a new chairperson shall be selected in accordance with Article 171 of the Agreement from among the persons who have been jointly proposed by the Union and the United Kingdom to act as chairperson, with the exception of the selected person.

#### IV. Financial issues

12. The Parties shall share equally the expenses arising from the establishment and operation of an arbitration panel, including the remuneration and expenses to be paid to the members of that arbitration panel.
13. The Parties shall agree with the arbitration panel, within 7 days of its establishment, on:
  - (a) the remuneration and expenses to be paid to the members of the arbitration panel, which shall be reasonable and in accordance with WTO standards;

- (b) the remuneration to be paid to assistants; for each member of the arbitration panel, the total amount of remuneration to be paid to assistants shall be reasonable and in any event shall not exceed one third of the remuneration of that member.

Such agreement may be reached by any means of communication.

V. Timetable and written submissions

14. The arbitration panel shall, after consulting the Parties, establish an indicative timetable of the proceedings within 7 days of its establishment.
15. The complainant shall address its written submission to the arbitration panel no later than 20 days after the date of establishment of the indicative timetable. The respondent shall address its written submission to the arbitration panel no later than 20 days after the date on which it has received a copy of the written submission of the complainant.

VI. Operation of the arbitration panel

16. The chairperson of the arbitration panel shall preside over all its meetings. The arbitration panel may delegate to the chairperson the authority to make administrative and procedural decisions.
17. Unless otherwise provided in this Agreement or in these Rules of Procedure, the arbitration panel may conduct its proceedings and deliberations by any means of communication.
18. Only members of the arbitration panel may take part in the deliberations of the arbitration panel, but the arbitration panel may permit the members' assistants to be present at its deliberations.
19. The drafting of any ruling or decision shall remain the exclusive responsibility of the members of the arbitration panel, and shall not be delegated to any other person.
20. The International Bureau of the Permanent Court of Arbitration shall provide secretariat services and other logistic support to the arbitration panel.
21. Where a procedural question arises that is not covered by this Agreement or by these Rules of Procedure, the arbitration panel may, after consulting the Parties, decide on the procedure to be followed, provided that the latter is compatible with this Agreement and with these Rules of Procedure.
22. If the arbitration panel considers that there is a need to change any of the time periods for the proceedings referred to in these Rules of Procedure or to make any other procedural or administrative adjustment, it shall inform the Parties in writing, after consulting the Parties, of the reasons for the change or adjustment and the time period or adjustment needed.

VII. Hearings

23. Based upon the indicative timetable established pursuant to point 14, after consulting the Parties and the other members of the arbitration panel, the chairperson shall notify the Parties of the date, time and venue of the hearing. That information shall be made publicly available, unless the hearing is closed to the public.

The arbitration panel may decide, in agreement with the Parties, not to hold a hearing.

24. Unless the Parties agree otherwise, the hearing shall be held in The Hague, in the premises of the Permanent Court of Arbitration.

25. The arbitration panel may convene additional hearings if the Parties so agree.
  26. All members of the arbitration panel shall be present during the entirety of the hearing.
  27. Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether the hearing is open to the public or not:
    - (a) representatives of a Party;
    - (b) advisers;
    - (c) assistants;
    - (d) interpreters, translators and court reporters of the arbitration panel; and
    - (e) experts, as decided by the arbitration panel.
  28. No later than 5 days before the date of a hearing, each Party shall address to the arbitration panel and to the other Party a list of the names of persons who will make oral arguments or presentations at the hearing on behalf of that Party and the names of other representatives and advisers who will be attending the hearing.
  29. The arbitration panel shall conduct the hearing in the following manner, ensuring that the complainant and the respondent are afforded equal time in both argument and reply:
    - (a) argument:
      - (i) argument of the complainant;
      - (ii) argument of the respondent;
    - (b) reply:
      - (i) reply of the complainant;
      - (ii) counter-reply of the respondent.
  30. The arbitration panel may direct questions to either Party at any time during the hearing.
  31. The arbitration panel shall arrange for a transcript of the hearing to be prepared and delivered to the Parties as soon as possible after the hearing. The Parties may comment on the transcript and the arbitration panel may consider those comments.
  32. Each Party may address a supplementary written submission to the arbitration panel concerning any matter that arose during the hearing within 10 days after the date of the hearing.
- VIII. Questions in writing
33. The arbitration panel may at any time during the proceedings submit questions in writing to one or both Parties.
  34. Each Party shall have an opportunity to provide comments in writing on the other Party's responses to questions submitted by the arbitration panel within 5 days after the date on which it has received a copy of those responses.
- IX. Confidentiality

35. Any information submitted by a Party to the arbitration panel which that Party has designated as confidential shall be treated as confidential by the other Party and by the panel. When a Party submits to the arbitration panel a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information and which shall be disclosed to the public.
36. Nothing in these Rules of Procedure shall preclude a Party from disclosing its own written submissions, responses to questions submitted by the arbitration panel or transcript of oral argument to the public, provided that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.
37. Hearings before the arbitration panel shall be open to the public except where the submission and arguments of a Party contain confidential information or where the Parties otherwise agree that the hearing shall be closed to the public. In such case the Parties shall maintain the confidentiality of the hearings of the arbitration panel.
- X. Ex parte contacts
38. The arbitration panel shall not meet or otherwise orally communicate with a Party in the absence of the other Party.
- XI. Urgent cases
39. In cases of urgency referred to in Article 173(2) of the Agreement, the arbitration panel, after consulting the Parties, shall adjust, as appropriate, the time periods referred to in these Rules of Procedure. The arbitration panel shall notify the Parties of those adjustments.
- XII. Translation and interpretation
40. The language of proceedings before the arbitration panel shall be English. Decisions of the arbitration panel shall be issued in English.
41. Each Party shall bear its own costs of the translation of any documents submitted to the arbitration panel which are not originally drafted in English, as well as any costs relating to interpretation during the hearing related to its representatives or advisers.

## PART B

### CODE OF CONDUCT FOR MEMBERS OF ARBITRATION PANELS

#### Definitions

1. For the purposes of this Code of Conduct, the definition of ‘assistant’ set out in the Rules of Procedure shall apply. In addition, ‘candidate’ means a person whose name is on the list referred to in Article 171(1) of the Agreement and who is under consideration for selection as a member of an arbitration panel under that Article.

#### Responsibilities to the process

2. Every candidate and member of an arbitration panel shall avoid impropriety and the appearance of impropriety, shall be independent and impartial, shall avoid direct and indirect conflicts of interests and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement procedure is preserved. Former candidates or members of an arbitration panel shall comply with the obligations set out in points 8, 9 and 10.

### Disclosure obligations

3. Prior to the confirmation of their selection as a member of an arbitration panel under this Agreement, candidates shall disclose to the Parties in writing any interest, relationship or matter of which they are aware that is likely to affect their independence or impartiality, or that might reasonably create an appearance of impropriety or bias in the proceedings before the arbitration panel.
4. Candidates and members of an arbitration panel shall communicate matters concerning actual or potential violations of this Code of Conduct only to the Joint Committee for consideration by the Union and the United Kingdom.
5. Members of an arbitration panel shall at any stage of the proceedings before the arbitration panel disclose to the Parties in writing any interests, relationships or matters of the nature referred to in point 3 of which they are or become aware.

### Due diligence of members of an arbitration panel

6. Upon selection, members of an arbitration panel shall perform their duties thoroughly and expeditiously throughout the course of the proceedings before the arbitration panel, and with fairness and diligence. In particular, they shall:
  - (a) consider only those issues that were raised in the proceedings before the arbitration panel and are necessary for a ruling, and shall not delegate this duty to any other person;
  - (b) take all appropriate steps to ensure that their assistants are aware of, and comply with, points 2, 3, 4, 5, 9 and 10.

### Independence and impartiality of members of an arbitration panel

7. Members of an arbitration panel:
  - (a) shall be independent and impartial, and avoid creating an appearance of impropriety or bias, and shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to the Union or the United Kingdom, or fear of criticism;
  - (b) shall not directly or indirectly incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties;
  - (c) shall not use their position as a member of an arbitration panel to advance any personal or private interests and shall avoid actions that may create the impression that others are in a special position to influence them;
  - (d) shall not allow financial, business, professional, family or social relationships or responsibilities to influence their conduct or judgement;
  - (e) shall avoid entering into any relationship or acquiring any financial interest that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or bias;
  - (f) shall not discuss any aspect of the subject matter or the conduct of the proceedings before the arbitration panel with one or both of the Parties in the absence of the other members of the arbitration panel.

### Obligations of former members of an arbitration panel

8. All former members of an arbitration panel shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from any decision or ruling of the arbitration panel.

Confidentiality

9. No member or former member of an arbitration panel shall at any time
  - (a) disclose or use any non-public information concerning any proceedings before the arbitration panel or that was acquired during such proceedings, except for the purposes of those proceedings and in any case shall not disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others;
  - (b) disclose the deliberations of the arbitration panel, or the views of any member of the panel.
10. No member of an arbitration panel shall disclose a ruling of the arbitration panel or parts thereof prior to its publication in accordance with this Agreement.

- (1) OJ C 106, 24.4.2010, p. 1.
- (2) OJ C 106, 24.4.2010, p. 5.
- (3) OJ C 149, 8.6.2010, p. 3.
- (4) OJ C 187, 10.7.2010, p. 5.
- (5) OJ C 152, 20.5.2014, p. 21.
- (6) OJ C 233, 19.7.2017, p. 3.
- (7) OJ C 106, 24.4.2010, p. 11.
- (8) OJ C 52, 11.2.2016, p. 11.
- (9) OJ C 106, 24.4.2010, p. 13.
- (10) OJ C 106, 24.4.2010, p. 56.
- (11) OJ C 107, 27.4.2010, p. 3.
- (12) OJ C 149, 8.6.2010, p. 5.
- (13) OJ C 45, 12.2.2011, p. 5.
- (14) OJ C 52, 11.2.2016, p. 13.
- (15) OJ C 263, 20.7.2016, p. 3.
- (16) OJ C 279, 27.9.2013, p. 13.
- (17) OJ C 106, 24.4.2010, p. 21.
- (18) OJ C 279, 27.9.2013, p. 11.
- (19) OJ C 106, 24.4.2010, p. 23.
- (20) OJ C 106, 24.4.2010, p. 26.
- (21) OJ C 106, 24.4.2010, p. 40.
- (22) OJ C 106, 24.4.2010, p. 54.
- (23) OJ C 107, 27.4.2010, p. 6.
- (24) OJ C 262, 6.9.2011, p. 6.
- (25) OJ C 279, 27.9.2013, p. 8.
- (26) OJ C 152, 20.5.2014, p. 16.
- (27) OJ C 240, 10.8.2012, p. 3.
- (28) OJ C 46, 18.2.2014, p. 8.
- (29) OJ C 106, 24.4.2010, p. 42.
- (30) OJ C 106, 24.4.2010, p. 43.
- (31) OJ C 106, 24.4.2010, p. 45.
- (32) OJ C 57, 25.2.2012, p. 4.
- (33) OJ C 106, 24.4.2010, p. 49.
- (34) OJ C 106, 24.4.2010, p. 51.
- (35) OJ L 166, 30.4.2004, p. 1.
- (36) OJ L 284, 30.10.2009, p. 43.
- (37) OJ L 338, 22.12.2010, p. 35.
- (38) OJ L 149, 8.6.2012, p. 4.
- (39) OJ L 349, 19.12.2012, p. 45.

- (40) OJ L 158, 10.6.2013, p. 1.
- (41) OJ L 346, 20.12.2013, p. 27.
- (42) OJ L 366, 20.12.2014, p. 15.
- (43) OJ L 76, 22.3.2017, p. 13.
- (44) OJ L 284, 30.10.2009, p. 1.
- (45) OJ L 338, 22.12.2010, p. 35.
- (46) OJ L 149, 8.6.2012, p. 4.
- (47) OJ L 349, 19.12.2012, p. 45.
- (48) OJ L 346, 20.12.2013, p. 27.
- (49) OJ L 366, 20.12.2014, p. 15.
- (50) OJ L 76, 22.3.2017, p. 13.
- (51) OJ 121, 29.7.1964, p. 1977.
- (52) OJ L 46, 19.2.1991, p. 19.
- (53) OJ L 192, 23.7.2010, p. 1.
- (54) OJ L 343, 22.12.2009, p. 74.
- (55) OJ L 268, 14.9.1992, p. 54.
- (56) OJ L 302, 19.10.1989, p. 1.
- (57) OJ L 194, 22.7.1988, p. 10.
- (58) OJ L 224, 18.8.1990, p. 62.
- (59) OJ L 328, 24.11.2006, p. 14.
- (60) OJ L 178, 28.6.2013, p. 1.
- (61) Sellafeld Ltd, SELLAFIELD CA20 1PG, UNITED KINGDOM
- (62) Dounreay Site Restoration Ltd, KW14 7TZ THURSO CAITHNESS, UNITED KINGDOM
- (63) EDF Energy Nuclear Generation Limited - Sizewell B Power Station, SUFFOLK, IP16 4UR LEISTON
- (64) Urenco UK Limited, Capenhurst Works, CHESTER CH1 6ER, UNITED KINGDOM
- (65) Westinghouse Springfields Fuels Ltd, SALWICK PRESTON PR4 OXJ, UNITED KINGDOM
- (66) OJ L 227, 1.9.1994, p. 1.
- (67) OJ L 311, 28.11.2001, p. 67.
- (68) OJ L 378, 27.12.2006, p. 1.
- (69) OJ L 324, 10.12.2007, p. 121.
- (70) OJ L 18, 22.1.2000, p. 1.
- (71) OJ L 311, 28.11.2001, p. 1.
- (72) OJ L 152, 16.6.2009, p. 11.
- (73) OJ L 136, 30.4.2004, p. 1.
- (74) OJ L 159, 20.6.2012, p. 5.
- (75) OJ L 334, 12.12.2008, p. 7.
- (76) OJ L 396, 30.12.2006, p. 1.
- (77) OJ L 353, 31.12.2008, p. 1.
- (78) OJ L 309, 24.11.2009, p. 1.

- (79) OJ L 70, 16.3.2005, p. 1.
- (80) OJ L 167, 27.6.2012, p. 1.
- (81) OJ L 158, 27.5.2014, p. 1.
- (82) OJ L 334, 12.12.2008, p. 25.
- (83) OJ L 131, 28.5.2009, p. 11.
- (84) OJ L 106, 17.4.2001, p. 1.
- (85) OJ L 268, 18.10.2003, p. 1.
- (86) OJ L 404, 30.12.2006, p. 9.
- (87) OJ L 317, 4.11.2014, p. 35.
- (88) OJ L 229, 1.9.2009, p. 1.