

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

PART THREE

SEPARATION PROVISIONS

TITLE IV

INTELLECTUAL PROPERTY

Article 54

Continued protection in the United Kingdom of registered or granted rights

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

- a the holder of a European Union trade mark registered in accordance with Regulation (EU) 2017/1001 of the European Parliament and of the Council⁽¹⁾ shall become the holder of a trade mark in the United Kingdom, consisting of the same sign, for the same goods or services;
- b the holder of a Community design registered and, where applicable, published following a deferral of publication in accordance with Council Regulation (EC) No 6/2002⁽²⁾ shall become the holder of a registered design right in the United Kingdom for the same design;
- c the holder of a Community plant variety right granted pursuant to Council Regulation (EC) No 2100/94⁽³⁾ shall become the holder of a plant variety right in the United Kingdom for the same plant variety.

2 Where a geographical indication, designation of origin or traditional speciality guaranteed within the meaning of Regulation (EU) No 1151/2012 of the European Parliament and of the Council⁽⁴⁾, a geographical indication, designation of origin or traditional term for wine within the meaning of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁵⁾, a geographical indication within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council⁽⁶⁾ or a geographical indication within the meaning of Regulation (EU) No 251/2014 of the European Parliament and of the Council⁽⁷⁾, is protected in the Union on the last day of the transition period by virtue of those Regulations, those persons who are entitled to use the geographical indication, the designation of origin, the traditional speciality guaranteed or the traditional term for wine concerned shall be entitled, as from the end of the transition period, without any re-examination, to use the geographical indication, the designation of origin, the traditional speciality guaranteed or the traditional term for wine concerned in the United Kingdom, which shall be granted at least the same level of protection under the law of the United Kingdom as under the following provisions of Union law:

- a points (i), (j) and (k) of Article 4(1) of Directive (EU) 2015/2436 of the European Parliament and of the Council⁽⁸⁾; and

- b in view of the geographical indication, designation of origin, traditional speciality guaranteed or traditional term for wine concerned, Article 13, Article 14(1), Article 24, Article 36(3), Articles 38 and 44 and point (b) of Article 45(1) of Regulation (EU) No 1151/2012; Article 90(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council⁽⁹⁾; Article 100(3), Article 102(1), Articles 103 and 113, and point (c)(x) of Article 157(1) of Regulation (EU) No 1308/2013; Article 62(3) and (4) of Commission Regulation (EC) No 607/2009⁽¹⁰⁾; the first subparagraph of Article 15(3), Article 16 and Article 23(1) of Regulation (EC) No 110/2008 and, insofar as to the extent related to compliance with those provisions of that Regulation, Article 24(1) of that Regulation; or Article 19(1) and Article 20 of Regulation (EU) No 251/2014.

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

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

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

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

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

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

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

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

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

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

Article 55

Registration procedure

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

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

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

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

Article 56

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

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

Article 57

Continued protection in the United Kingdom of unregistered Community designs

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

Article 58

Continued protection of databases

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

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

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

Article 59

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

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

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

Article 60

Pending applications for supplementary protection certificates in the United Kingdom

1 Regulations (EC) No 1610/96⁽¹²⁾ and No 469/2009⁽¹³⁾ of the European Parliament and of the Council, respectively, shall apply in respect of applications for supplementary protection certificates for plant protection products and for medicinal products, as well as to applications for the extension of the duration of such certificates, where such applications were submitted to an authority in the United Kingdom before the end of the transition period in cases where the administrative procedure for the grant of the certificate concerned or of the extension of its duration was ongoing at the end of the transition period.

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

Article 61

Exhaustion of rights

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

- (1) Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154, 16.6.2017, p. 1).
- (2) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).
- (3) Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1).
- (4) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).
- (5) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).
- (6) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).
- (7) Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).
- (8) Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).
- (9) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy (OJ L 347, 20.12.2013, p. 549).
- (10) Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193 24.7.2009, p. 60).
- (11) Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20).
- (12) Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ L 198, 8.8.1996, p. 30).
- (13) Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ L 152, 16.6.2009, p. 1).