



Remarks by President Jean-Claude Juncker at today's joint press conference with UK Prime Minister Theresa May

Strasbourg, 11 March 2019

Madame Prime Minister,

Ladies and Gentlemen,

I remember standing in front of the press almost three years ago on 24 June 2016, the day after the British people in a referendum decided to leave our Union. It was a sad day for our Union and a sad day for me personally. But we must respect the decision of the British people – no matter how deeply we regret it.

As I said back then: the European Union has rules to allow a Member State to leave. Ever since 29 March 2017 when the United Kingdom notified its intention to leave, the European Union has negotiated in this spirit. Our aim is to ensure that this withdrawal takes place in an orderly way.

We want the rights of citizens on both sides of the channel to be protected. And we want to preserve peace on the island of Ireland. These are things any responsible politician should care about. The European Union and the United Kingdom have a joint responsibility.

We have a deal on the table which does exactly this. The Withdrawal Agreement that the European Union and the Government of the United Kingdom agreed on has in fact been on the table for 105 days now. The European Union is ready and our ratification process is ongoing. I have no doubt that it can be concluded on time.

However, as we all know the ratification has been more difficult on the UK side. That is why the Commission's Chief Negotiator Michel Barnier and I personally have been working extremely hard over the past months to provide the additional reassurances the Prime Minister needs to help her get the deal over the finishing line.

Before the first meaningful vote in January, together with President Tusk, I sent a letter setting out our understanding of the Withdrawal Agreement, in particular on the backstop and our commitment to swiftly negotiate our future relationship.

Since then, the Prime Minister and I, we met very often, at least three times in the space of just one month, including in the desert of Egypt by the way.

We tasked our negotiating teams to explore additional guarantees and clarifications relating to the backstop, alternative arrangements to ensure the absence of a hard border on the island of Ireland and additions or changes to the political declaration related to the future relationship that could be helpful to all of us.

Michel Barnier met four times in the space of one month with the UK's negotiator Steve Barclay and the Attorney General.

The EU has spared no energy, time or commitment to clarify, reassure or explain what the Withdrawal Agreement is – and what it is not. We left no stone unturned. Our mind has always been open, our work always creative and our hand has always been outstretched.

It is in this spirit that today the Prime Minister and I have agreed on a joint legally binding instrument relating to the Withdrawal Agreement. This Instrument provides meaningful clarifications and legal guarantees on the nature of the backstop.

The backstop is an insurance policy – nothing more, nothing less.

The intention is not for it to be used like with every insurance policy.

And if it were ever to be used, it will never be a trap. If either side were to act in bad faith, there is a legal way for the other party to exit.

The Instrument which sets out these details has legal force while fully respecting the Guidelines the European Council has unanimously agreed. It complements the Withdrawal Agreement without reopening it. My team and I have been in constant contact with our Irish friends over the past days and over the last hours. The Taoiseach would be prepared to back this approach in the interests of an

overall deal.

I have just informed the President of the European Council this evening and asked him to recommend that the European Council endorses this Joint Instrument – subject to a prior positive vote in the House of Commons on the Withdrawal Agreement.

In politics, sometimes you get a second chance. It is what we do with this second chance that counts. Because there will be no third chance. There will be no further interpretations of the interpretations; and no further assurances of the re-assurances – if the meaningful vote tomorrow fails.

Let us be crystal clear about the choice: it is this deal or Brexit might not happen at all.

Faced with this stark reality, Members of the House of Commons have a deep responsibility and fundamental choice to make.

I was following day after day, sometimes minute after minute, the debates in the House of Commons, interesting debates, and all the views which were expressed in the debate have to be respected. I am convinced that the Members of the House are patriots – and rightly so – but I am as convinced that the Members of the House want to have a good future relationship with the European Union.

If the Withdrawal Agreement gets the backing of the House, the European Union is ready to immediately begin preparations on our future relationship. The European Commission's negotiation team is in place: our tireless and extremely skilled Chief Negotiator Michel Barnier will be at the head of this team. We are ready.

The United Kingdom may be leaving our Union but it will not be leaving our hearts and minds. We are bound together by common history and geography. Our personal ties, friendships and relationships run deep and this will never change.

It is with this in mind that I hope and I trust that today's meaningful legal assurances will be meaningful enough for the meaningful vote tomorrow. Let's now bring this withdrawal to a good end. We owe it to history.

Wir haben lange verhandelt. Es waren schwierige Verhandlungen. Wir sind meterweise, manchmal auch millimeterweise aufeinander zugegangen. Ich bin fest davon überzeugt, dass die Vereinbarung, die wir heute getroffen haben, der einzig gangbare Weg ist.

Depuis mars 2017, nous avons négocié d'arrache-pied pour trouver l'accord que nous avons aujourd'hui. Mais il reste que c'est un jour triste pour l'Union européenne. Mais, en démocratie, il faut respecter les choix du peuple. L'accord d'aujourd'hui est le seul possible.

Questions and Answers

Q1 Prime Minister, have you secured a time limit to the backstop or unilateral exit mechanism from the backstop? And President Juncker, does any of this change the contents of the deal at all?

President Juncker: The Instrument we agreed upon respects the spirit and letter by letter of the Conclusions the European Council has agreed upon. This deal, this Instrument, this arrangement, we have agreed upon today complements the Withdrawal Agreement without reopening it.

Q2 Prime Minister, has a single word of the Withdrawal Agreement changed as a result of your meeting tonight? And has the Attorney-General told you that he will therefore change his legal advice? And to you Mr Juncker, do you believe that this will go through tomorrow and if it does not, are you clear as you just said that that is it - no deal, no further changes?

President Juncker: I think I was rather clear just a few moments ago. There will be no new negotiations. This is it. And I am grateful to the Prime Minister for the friendly and determined way she was able to negotiate with me despite the difficulties we had. Thank you.

SPEECH/19/1635

11 March 2019

TF50 (2019) 61 – Commission to EU 27

Subject: Instrument relating to the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

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

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**INSTRUMENT RELATING TO THE AGREEMENT ON THE WITHDRAWAL OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND FROM THE EUROPEAN UNION AND THE EUROPEAN
ATOMIC ENERGY COMMUNITY**

The Union and the United Kingdom:

Reiterate the parties' wish to establish a future partnership that is as close and strong as possible, given the global challenges they share, and underline their commitment to embark on preparations immediately after the signature of the Withdrawal Agreement to ensure that negotiations on the future relationship can start as soon as possible after the United Kingdom's withdrawal.

Recall the exchange of letters of 14 January 2019 between the Presidents of the European Council and of the European Commission, and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, and the clarifications set out therein.

Recall that the parties do not wish the backstop solution in the Protocol on Ireland/Northern Ireland to become applicable, that were it to do so it would represent a suboptimal trading arrangement for both sides, and that both parties are therefore determined to replace the backstop solution for Northern Ireland by a subsequent agreement that would ensure, on a permanent footing, the absence of a hard border on the island of Ireland, in full respect of the integrity of the Union's internal market and of the territorial integrity of the United Kingdom.

Underline that the Protocol on Ireland/Northern Ireland will be subject to regular reviews in order for the Parties to consider whether that Protocol is still necessary or could cease to apply in whole or in part.

Recall that after the end of the transition period, any dispute concerning compliance with Article 5 of the Withdrawal Agreement, Articles 2(1) and 20 of the Protocol on Ireland / Northern Ireland will be subject to the dispute settlement mechanism enshrined in Articles 167 to 181 of the Withdrawal Agreement.

Note that this instrument provides, in the sense of Article 31 of the Vienna Convention on the Law of Treaties, a clear and unambiguous statement by both parties to the Withdrawal Agreement of what they agreed in a number of provisions of the Withdrawal Agreement, including the Protocol on Ireland/Northern Ireland. Therefore, it constitutes a document of reference that will have to be made use of if any issue arises in the implementation of the Withdrawal Agreement. To this effect, it has legal force and a binding character.

A. IN RELATION TO ARTICLE 5 OF THE WITHDRAWAL AGREEMENT AND ARTICLE 2(1) OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND

Negotiations on the future agreement and replacement of the Protocol in whole or in part

1. The Union and the United Kingdom recall their commitment to ensure, in full mutual respect and good faith, the fulfilment of the obligations arising from the Withdrawal Agreement.
2. The preamble of the Protocol on Ireland/Northern Ireland (“the Protocol”) records the “Union's and the United Kingdom's intention to replace the backstop solution on Northern Ireland by a subsequent agreement that establishes alternative arrangements for ensuring the absence of a hard border on the island of Ireland on a permanent footing”, while protecting the integrity of the Union’s internal market and the territorial integrity of the United Kingdom.
3. Article 2(1) of the Protocol contains the obligation for the Union and the United Kingdom to “use their best endeavours to conclude, by 31 December 2020, an agreement which supersedes this Protocol in whole or in part”.
4. The Union and the United Kingdom consider that, for example, a systematic refusal to take into consideration adverse proposals or interests, would be incompatible with their obligations under Article 2(1) of the Protocol and Article 5 of the Withdrawal Agreement.
5. In light of their obligation under Article 2(1) of the Protocol, the Union and the United Kingdom will start negotiations on a subsequent agreement as soon as possible after the United Kingdom's withdrawal from the Union. Those negotiations should be conducted as a matter of priority, and efforts redoubled should the negotiations not be concluded within 1 year from the date of the United Kingdom's withdrawal.
6. In order to enable the rapid commencement of and progress in those formal negotiations, the Union and the United Kingdom commit, in line with paragraphs 141 to 143 of the political declaration agreed between them in November 2018, to embark on preparations for those negotiations immediately after signature of the Withdrawal Agreement, including by setting up their respective negotiating structures and discussing logistical arrangements. The Union and the United Kingdom are therefore committed to working speedily on a subsequent agreement that establishes by 31 December 2020 alternative arrangements, so that the backstop will not need to be triggered.
7. The Union and the United Kingdom further agree to establish, immediately following the ratification of the Withdrawal Agreement, a negotiating track for replacing the customs and regulatory alignment in goods elements of the Protocol¹ with alternative arrangements. That negotiating track, referred to in the joint statement supplementing the political declaration, will include, inter alia, consideration of comprehensive customs cooperation arrangements, facilitative arrangements and technologies. By virtue of being embedded in the overall negotiation structure, the negotiating track on alternative arrangements will be able to take account of progress made in the wider negotiations on the future relationship, in particular on goods regulations and customs.
8. In accordance with paragraph 147 of the political declaration, a high level conference will be convened at least every six months from the date of the United Kingdom’s withdrawal from the Union to take stock of progress and agree, as far as is possible between them, actions to move forward. In order to ensure that a subsequent agreement can enter into force by the end

¹ Articles 6 to 10 of the Protocol.

of the transition period, the Union and the United Kingdom consider it important to review the progress on alternative arrangements at every high level conference, alongside wider progress on the future relationship. In light of those considerations, the United Kingdom, in line with Article 3 of the Protocol, may request an extension of the transition period to allow further time for the future relationship and the subsequent agreement to be finalised.

9. With a view to rapidly addressing any substantive obstacles that could delay or risk progress, the Union and the United Kingdom also agree to convene immediately, upon the request of either party and at short notice, additional extraordinary high-level conferences at any moment.
10. A subsequent agreement replacing the customs and regulatory alignment in goods elements of the Protocol could stand alone or form part of a wider agreement or agreements on the future relationship, depending on the progress of the wider negotiations. Alternative arrangements, which supersede the Protocol in whole or in part, in accordance with Article 2 of the Protocol, are not required to replicate its provisions in any respect, provided that the underlying objectives continue to be met. In the event that the agreement needs to stand alone due to delays in progress on the wider negotiations, the parties will aim at establishing this agreement very rapidly after the end of the transition period in full respect of the parties' respective legal orders.
11. The Union and the United Kingdom agree that once negotiations on alternative arrangements have been completed to the satisfaction of both parties, the outcome will be transposed into a subsequent agreement. The subsequent agreement transposing the alternative arrangements will be applied as soon as possible after its signature, if necessary and appropriate by means of provisional application, in line with the applicable legal frameworks and existing practice.

Compliance and unilateral suspension

12. The Union and the United Kingdom agree that it would be inconsistent with their obligations under Article 5 of the Withdrawal Agreement and Article 2(1) of the Protocol for either party to act with the objective of applying the Protocol indefinitely. Should the Union or the United Kingdom consider the other party was acting in this way after the Protocol became applicable, it could make use of the dispute settlement mechanism enshrined in Articles 167 to 181 of the Withdrawal Agreement.
13. If a dispute arises in relation to Article 5 of the Withdrawal Agreement and Article 2(1) of the Protocol, the Union and the United Kingdom will immediately enter into consultations in the Joint Committee. They will endeavour to resolve the dispute in a timely manner, with the aim of reaching a mutually agreed solution. With a view to facilitating such a solution, each party will provide a written reasoned justification of its respective position and will respond in writing to the other.
14. Under the dispute settlement mechanism, a ruling by the arbitration panel that a party acts with the objective of applying the Protocol indefinitely would be binding on the Union and the United Kingdom. Persistent failure by a party to comply with a ruling, and thus persistent failure by that party to return to compliance with its obligations under the Withdrawal Agreement, may result in temporary remedies. Ultimately, the aggrieved party would have the right to enact a unilateral, proportionate suspension of its obligations under the Withdrawal Agreement (other than Part Two), including the Protocol. Such a suspension may remain in place unless and until the offending party has taken the necessary measures to comply with the ruling of the arbitration panel.

B. IN RELATION TO SAFEGUARDS FOR NORTHERN IRELAND

15. The Protocol does not affect or supersede the provisions of the 1998 Agreement in any way. In particular, it does not alter in any way the arrangements under Strand II of the 1998 Agreement, whereby areas of North-South cooperation in areas within their respective competences are matters for the Northern Ireland Executive and Government of Ireland to determine.
16. In accordance with Article 15(5) of the Protocol, any new Union act that falls within the scope of the Protocol, but neither amends nor replaces a Union act listed in the Annexes to the Protocol, will require the agreement of the United Kingdom in the Joint Committee in order to be added to the relevant Annex of the Protocol.
17. The Union and the United Kingdom confirm that the Protocol does not prevent the United Kingdom from facilitating, as part of its delegation, the participation of Northern Ireland Executive representatives in the Joint Committee, the Committee on issues related to the implementation of the Protocol, or the joint consultative working group, in matters pertaining directly to Northern Ireland.

C. IN RELATION TO ARTICLE 184 OF THE WITHDRAWAL AGREEMENT

18. The sole purpose of Article 184 of the Withdrawal Agreement is to create best endeavours obligations for the Union and the United Kingdom to negotiate agreements governing their future relationship and that this provision imposes no obligations regarding the territorial scope of such agreements. Therefore, there is no obligation or presumption, on the basis of this provision, for such agreements to have the same territorial scope as the one provided for in Article 3 of the Withdrawal Agreement.

UNILATERAL DECLARATION

The United Kingdom reiterates its wish to establish a future partnership that is as close and strong as possible, given the global challenges it shares with the European Union, and underlines its commitment to embark on preparations immediately after the signature of the Withdrawal Agreement to ensure that negotiations on the future relationship can start as soon as possible after withdrawal.

In that light, the United Kingdom notes, subject to Article 1(4) of the Protocol on Ireland/Northern Ireland, that the objective of the Withdrawal Agreement is not to establish a permanent relationship between the Union and the United Kingdom, and that the provisions of the Protocol are therefore intended to apply only temporarily, taking into account the commitments of the Parties set out in Article 2(1).

The preamble to the Protocol further recalls that the Withdrawal Agreement, which is based on Article 50 TEU, does not aim at establishing a permanent future relationship between the Union and the United Kingdom.

The United Kingdom wishes to record its understanding of the effect of this provision if, contrary to the intentions of the parties, it is not possible for them to conclude an agreement which supersedes the Protocol in whole or in part due to a breach of Article 5 of the Withdrawal Agreement by the Union.

The United Kingdom would not consider its application to be temporary in these circumstances, as in its view the Protocol would then constitute a permanent relationship between the Union and the United Kingdom.

Article 1(4) makes clear this is not the Parties' intention. If under these circumstances it proves not to be possible to negotiate a subsequent agreement as envisaged in Article 2 of the Protocol, the United Kingdom records its understanding that nothing in the Withdrawal Agreement would prevent it from instigating measures that could ultimately lead to disapplication of obligations under the Protocol, in accordance with Part Six, Title III of the Withdrawal Agreement or Article 20 of the Protocol, and under the proviso that the UK will uphold its obligations under the 1998 Agreement in all its dimensions and under all circumstances and to avoid a hard border on the island of Ireland.



Brussels, **XXX**
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COMMUNICATION TO THE COMMISSION

on the endorsement by the Commission of the result of the discussions with the United Kingdom on Interpretative Declarations related to the Agreement on the withdrawal of the United Kingdom from the European Union and Euratom, and on their transmission to the European Council

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The United Kingdom has decided to leave the European Union, following a referendum on 23 June 2016, in which a majority of participants voted to leave the European Union.

On 29 March 2017, the United Kingdom notified the European Council, in accordance with Article 50 of the Treaty on European Union, of its intention to withdraw¹ from the European Union and Euratom, thereby triggering a two year period during which the Union and Euratom are to negotiate, and conclude, an agreement with the United Kingdom setting out the arrangements for its withdrawal (the “Withdrawal Agreement”).

On 29 April 2017, the European Council (Article 50) adopted Guidelines for such negotiations. On 22 May 2017, the Council adopted a decision authorising the opening of negotiations with the United Kingdom on a Withdrawal Agreement, including the Negotiating Directives, and appointing the Commission as negotiator.

On 14 November, an agreement was reached, at technical level, on the text of the Withdrawal Agreement (TF50(2018)55). This text fully reflected the European Council Guidelines and the Council Negotiating Directives. On 22 November 2018, the Commission approved the Withdrawal Agreement.²

On 25 November 2018, the European Council (Article 50) and the United Kingdom endorsed the Withdrawal Agreement and approved the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

On 5 December 2018, the Commission adopted a proposal for a Council Decision on the signing, on behalf of the European Union and of the European Atomic Energy Community, of 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 (COM(2018) 833), and for a proposal for a Council Decision on the conclusion of 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 (COM(2018) 834).

On 11 January 2019, the Council authorised the signature of the Withdrawal Agreement³ and transmitted the draft Council Decision on the conclusion of the Withdrawal Agreement to the European Parliament for its consent.

If the Withdrawal Agreement is not ratified, the United Kingdom will withdraw from the European Union in a disorderly fashion. While this is not a desirable outcome, the European Union has nevertheless been preparing for a no-deal scenario since December 2017. The Commission has taken all the measures required to protect the Union’s interests and mitigate

¹ Before 29 May 2019, the United Kingdom may revoke unilaterally, in an “unequivocal and unconditional manner”, the notification of its intention to withdraw from the EU, Case C-621/18 Wightman and Others v Secretary of State for Exiting the European Union.

² Communication to the Commission, endorsed on 22 November 2018, C(2018)9001.

³ Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of 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 (OJ L 471 , 19.2.2019, p. 1).

the most disruptive consequences of such a scenario.⁴ To date, the Commission has tabled 19 legislative proposals of which 11 have been adopted or agreed by the European Parliament and the Council and 8 are advancing well. In addition to this, the Commission has adopted 19 non-legislative acts.

Additional reassurances for the United Kingdom Parliament were provided in an exchange of letters between Presidents Tusk and Juncker and Prime Minister May on 14 January 2019. They underline in particular that the Union does not wish the backstop solution to become applicable and confirm the intention of both parties to embark on negotiations on the future partnership immediately after the signature of the Withdrawal Agreement. Subsequently, President Juncker and Prime Minister May met in Brussels on 7 February⁵ and on 20 February⁶ and in Sharm El Sheikh on 25 February 2019.

Following the meeting between President Juncker and Prime Minister May of 20 February 2019, discussions resumed and intensified on three strands: possible guarantees with regard to the backstop that underline once again its temporary nature and give the appropriate legal assurance to both sides; the process for the European Commission and the United Kingdom will follow when working in detail on the role alternative arrangements could play in replacing the backstop in future; and whether additions or changes to the Political Declaration could be made.

Discussions between the Commission and United Kingdom negotiators continued between 21 February and 10 March 2019. They resulted in an agreement, at technical level, on an Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as well as on a Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The Commission, as negotiator for the Union, should endorse the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland.

The Commission should also authorise President Juncker to transmit the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland, with the recommendation that the European Council (Article 50) endorse

⁴ See in particular, and for an overview of measures taken: Commission Brexit Preparedness and Contingency Communications of 19 July (COM(2018)556), 13 November (COM(2018)880) and 19 December 2019 (COM(2018)890).

⁵ Joint statement on behalf of President Juncker and Prime Minister May, http://europa.eu/rapid/press-release_STATEMENT-19-903_en.htm.

⁶ Joint statement on behalf of President Juncker and Prime Minister May, http://europa.eu/rapid/press-release_STATEMENT-19-1335_en.htm

these documents subject to a prior positive vote in the House of Commons on the Withdrawal Agreement.

The Commission is therefore invited to:

- endorse the Instrument relating to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (TF50(2019)XX) and the Joint Statement supplementing the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom of Great Britain and Northern Ireland (TF50(2019)XX).
- authorise the President to transmit the two abovementioned documents to the European Council (Article 50), with the letter enclosed.

Encl : draft letter from President Juncker to President Tusk.