

8 February 2019

TF50 (2019) 59 – Commission to EU 27

Subject: The EU-UK Withdrawal Agreement explained (slides).

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

Remarks: These slides are for presentational and information purposes only.

Published on the TF50 website on 8 February 2019



Commission
européenne



The EU-UK Withdrawal Agreement EXPLAINED



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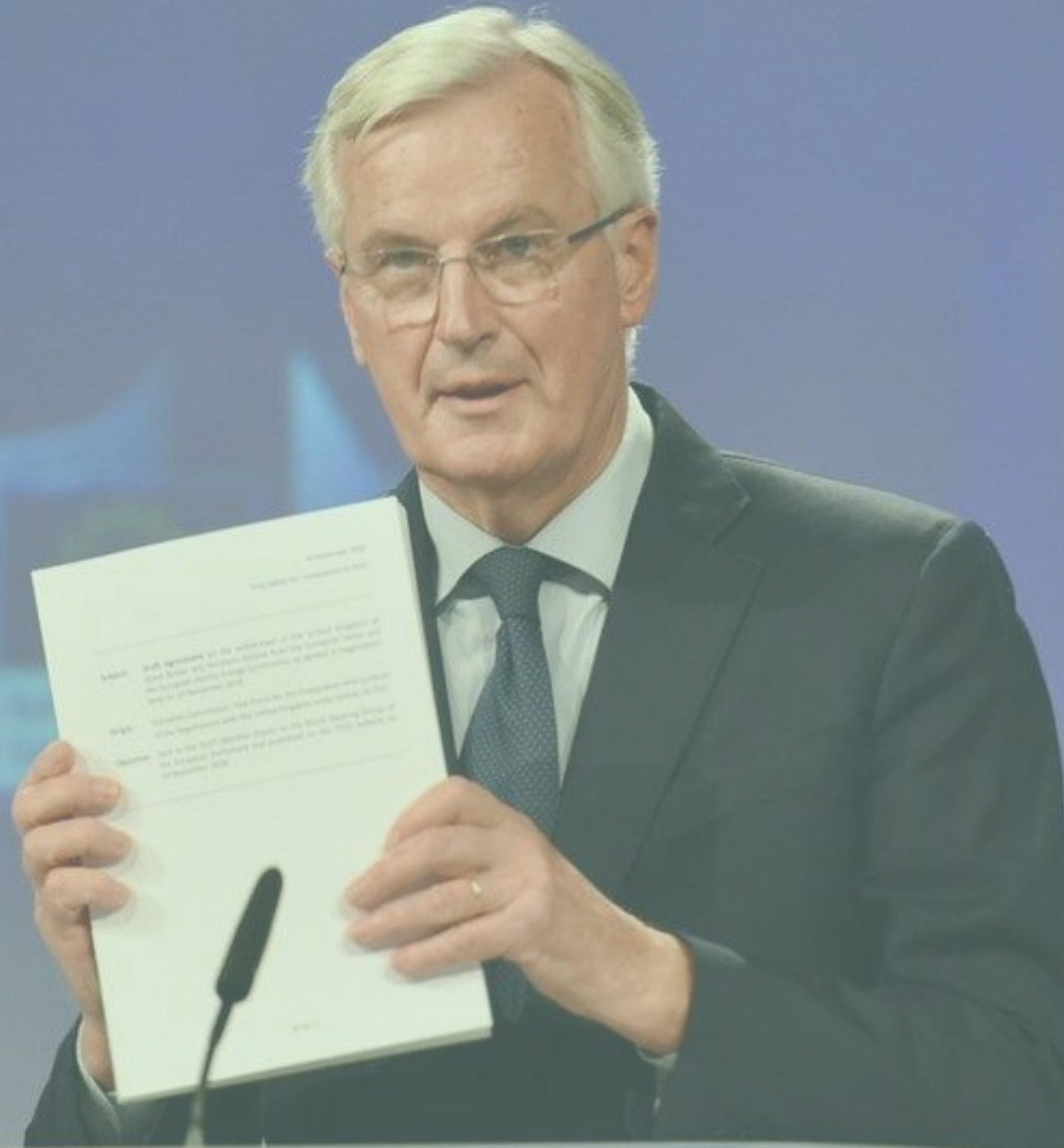
We have negotiated with the UK,
never against the UK.

This deal is a necessary step to build
trust between the UK and the EU. We
need to build, in the next phase, an
unprecedented and ambitious
partnership.

The UK will remain our friend, our
partner and our ally.

”

*Michel Barnier, the European
Commission's Chief Negotiator,
at the Special Meeting of the European
Council (Article 50), 25 November 2018*



Commission européenne
European Commission

WHAT IS THE WITHDRAWAL AGREEMENT?

The UK will leave the EU at midnight on 29 March 2019.

The Withdrawal Agreement ensures that this will happen in **an orderly manner**.



Article 50.2 of the Treaty on European Union:

"A Member State which decides to withdraw shall notify the European Council of its intention.

In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude **an agreement** with that State, setting out the arrangements for its withdrawal, taking account of the **framework for its future relationship** with the Union. [...]"

A TIMELINE OF KEY EVENTS

29 March
2017

19 June
2017

8 December
2017

19 March
2018

19 June
2018

14 November
2018

25 November
2018

Withdrawal
notification

Start of
Negotiations

Joint Report

Draft
Withdrawal
Agreement

Joint
Statement



Finalised
Withdrawal
Agreement

PM Theresa May notifies the European Council of the UK's intention to withdraw from the European Union

They first address three main withdrawal issues: **citizens' rights**, **the financial settlement**, and how to avoid a hard border on the **island of Ireland**.

This sets out the areas of agreement on the three main withdrawal issues and **other separation issues**.

Commission's recommendation to the European Council (Article 50) to conclude that sufficient progress has been made in the first phase of the negotiations

This draft **translates into legal terms** December's Joint Report. It highlights areas of agreement and disagreement.

This outlines **further progress** at negotiators' level.

Negotiators reach a deal. The European Commission recommends to the European Council to find that decisive progress has been made, allowing the negotiations to be concluded.

Political
Declaration

EU leaders endorse the Withdrawal Agreement and adopt the Declaration on the Framework for the Future Relationship.

Steps to conclude the Agreement



EU priorities in the Brexit negotiations

as outlined in the European Council (Art.50) guidelines
of 29 April & 15 December 2017

"The Union's overall objective in these negotiations will be to preserve its interests,
those of its citizens, its businesses and its Member States"

A **phased approach**
ensuring an **orderly withdrawal**

Protecting **citizens** who have built their lives on the basis of
rights flowing from UK membership of the EU

Ensuring that the Union and the UK both respect the
financial obligations resulting from the whole period of the
UK's membership in the Union

Continuing to support the goal of peace and reconciliation
enshrined in the **Good Friday Agreement**,
and to support and protect the achievements,
benefits and commitments of the
peace process on the island of Ireland

AN INCLUSIVE AND TRANSPARENT PROCESS



Together with the EU 27 Member States & the European Parliament:

The Agreement has been negotiated **in light of the European Council (Art. 50) guidelines**. Regular meetings were held with the 27 EU Member States at different levels, and with the **Brexit Steering Group** of the **European Parliament**.



Active listening:

Additional input from the **EU's consultative bodies** and from **stakeholders** helped gather evidence.



Unprecedented transparency:

All documents shared with EU Member States, the Council, the European Parliament, and the UK **were made public**, as were European Council guidelines, papers defining the EU's negotiating positions, and other relevant documents.

Michel Barnier frequently visited the EU 27 Member States for discussions with governments, parliaments, social partners and stakeholders.

MAIN AREAS COVERED BY THE WITHDRAWAL AGREEMENT (1/2)



Common provisions (Part I)

- ▶ Setting out cross-cutting clauses for the proper understanding and operation of the Withdrawal Agreement.



Separation issues (Part III)

- ▶ Ensuring an orderly withdrawal, notably through a smooth winding-down of ongoing procedures and arrangements applicable at the end of the transition period.



Financial settlement (Part V)

- ▶ Ensuring that the UK and the EU honour all financial obligations undertaken jointly while the UK was a Member State.



Citizens' rights (Part II)

- ▶ Protecting the life choices of over 3 million EU citizens in the UK, and over 1 million UK nationals in EU countries, safeguarding their right to live, work or study in their host country.



Transition (Part IV)

- ▶ Providing for a transition period, until the end of 2020, which can be extended once, by up to one or two years.
- ▶ Ensuring continued application of EU law in and to the UK during that period (but without UK participation in EU institutions and governance structures)
- ▶ Providing more time for administrations, businesses and citizens to adapt.

MAIN AREAS COVERED BY THE WITHDRAWAL AGREEMENT (2/2)



Governance (Part VI)

- ▶ Ensuring the effective management, implementation and enforcement of the agreement, including an effective dispute settlement mechanism.



Protocol on the Sovereign Base Areas (SBAs) in Cyprus

- ▶ Protecting the interests of Cypriots who live and work in the Sovereign Base Areas.



Protocol on Ireland and Northern Ireland

- ▶ No hard border between Ireland and Northern Ireland.
- ▶ No diminution of rights set out in the Good Friday (Belfast) Agreement 1998. North-South cooperation protected.
- ▶ Continuation of the Common Travel Area arrangements between Ireland and the UK, and preservation of the Single Electricity Market



Protocol on Gibraltar

- ▶ Providing for administrative cooperation between Spain and the UK in respect of Gibraltar in a number of policy areas during the transition period and on the implementation of the citizens' rights part of the Withdrawal Agreement.

Part I: COMMON PROVISIONS

- ▶ Provisions of the Withdrawal Agreement **must have the same legal effects in the UK as in the EU and its Member States**
- ▶ UK courts must consistently interpret **CJEU case law** handed down until the end of the transition period, and pay due regard to CJEU case law handed down after that date
- ▶ **Primacy:** UK judicial and administrative authorities are empowered to **disapply any inconsistent or incompatible national legislation.**
- ▶ **Direct effect:** concerned parties can invoke the Withdrawal Agreement directly before national courts, both in the UK and in the EU Member States.
- ▶ References to Union law in the Withdrawal Agreement shall be understood as **including new legislation or amendments entering into force during the transition period.**

Part II: CITIZENS' RIGHTS

The Withdrawal Agreement safeguards the residency rights of over 3 million EU citizens in the UK and over 1 million UK nationals in EU countries.



Personal scope: Who is covered?

EU citizens who were **residing in the UK** and **UK nationals** who were **residing in one of the 27 EU Member States at the end of the transition period**, where such residence is in accordance with EU law on free movement.

Family members that are granted rights under EU law (current spouses and registered partners, parents, grandparents, children, grandchildren and a person in an existing durable relationship), who do not yet live in the same host state as the EU citizen or the UK national will be able to join them in the future.

Children are protected, wherever they are born, before or after the UK's withdrawal

Frontier workers and frontier self-employed persons are also protected in the countries where they work.

Which rights are protected?

EU citizens and UK nationals, as well as their family members can continue to live, work or study in their host country.

Residence rights

- ▶ The substantive conditions of residence are the same as those under current EU law on free movement.

Social security

- ▶ The persons concerned will maintain their right to healthcare, pensions and other social security benefits, and if they are entitled to a cash benefit from one country, they will in principle be entitled to receive it, even if they decide to live in another country.

They also benefit in full from the prohibition of any discrimination on grounds of nationality and the right to equal treatment compared to host state nationals.

Workers and self-employed persons

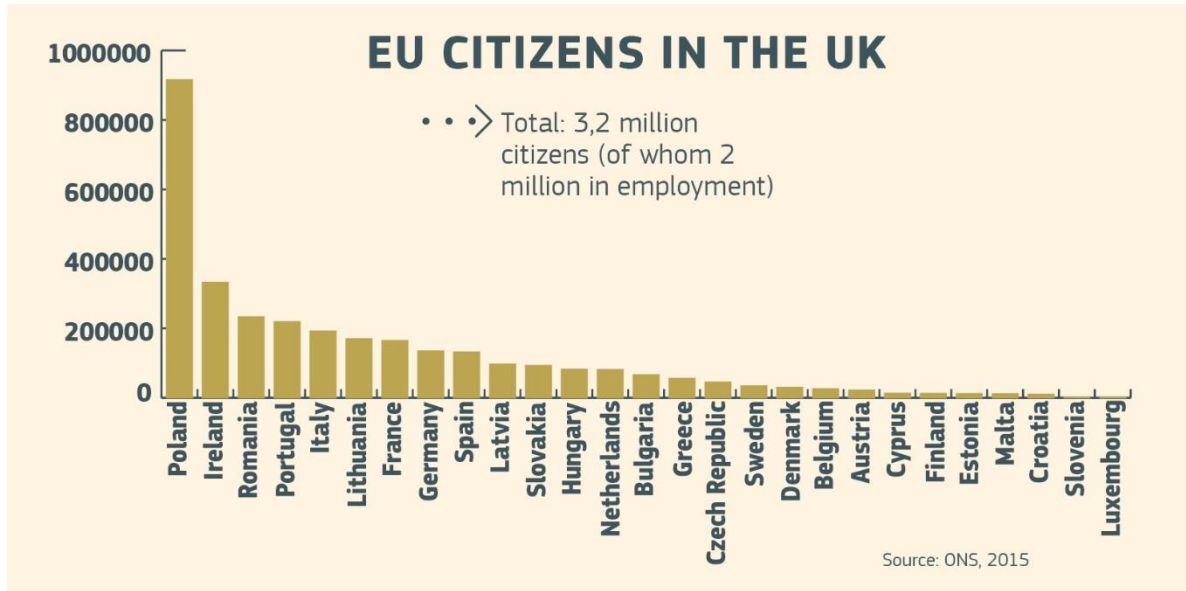
- ▶ Those covered by the Withdrawal Agreement will have the right to take up employment or to carry out an economic activity as a self-employed person. They will also keep all their workers' rights based on EU law.

- ▶ The Agreement protects the rights of frontier workers or frontier self-employed persons in the countries where they work.

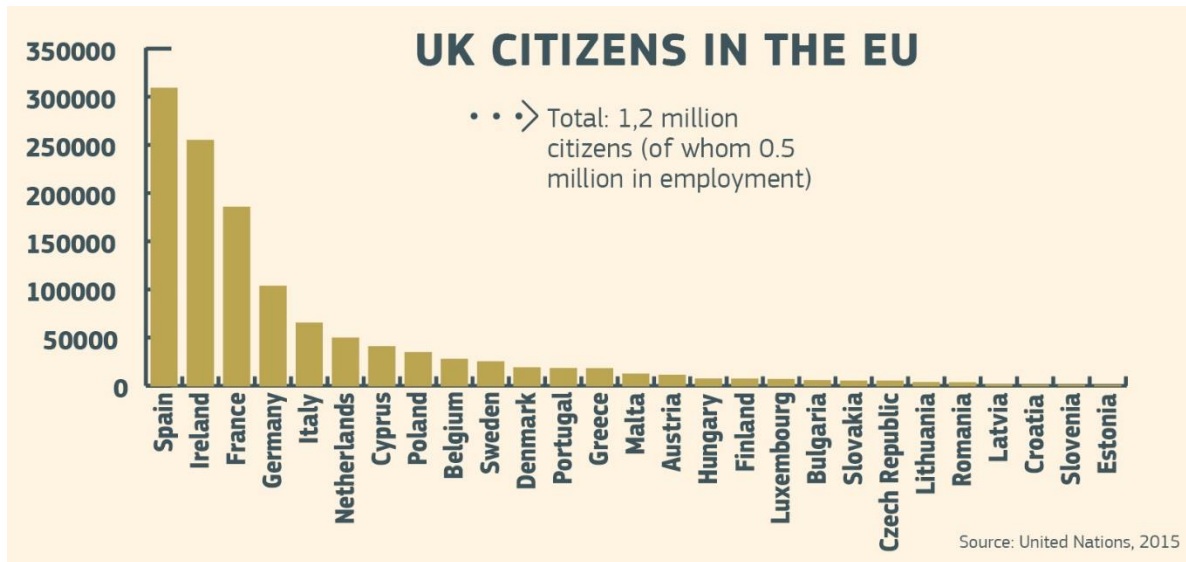
Professional qualifications

- ▶ Past decisions by the UK or EU Member States to recognise the professional qualifications of those covered by the Agreement will remain valid. Pending recognition procedures will be finalised and respected.

EU citizens in the UK and UK nationals in the EU



The figures used are estimates based on UK data (ONS, 2015) or UN data (United Nations, 2015). Actual numbers may vary.



Applicable procedures

Constitutive system:

A **mandatory application is required** as a condition for the enjoyment of rights under the Withdrawal Agreement.

*To be applied by the **UK and EU Member States that choose to do so***



Declaratory system:

Those who comply with the conditions **automatically** become beneficiaries of the Withdrawal Agreement.

*To be applied by **EU Member States that choose to do so***

→ **Smooth and simple administrative procedures**

→ **Administrative costs must not exceed those imposed on nationals** for issuing similar documents.

Those already holding a permanent residence document may exchange it free of charge.

Implementation and monitoring

The text of the Withdrawal Agreement on citizens' rights **can be relied upon directly** by EU citizens in UK courts, and by UK nationals in the courts of the EU Member States.

UK courts may **ask for preliminary rulings from the Court of Justice of the EU** on the interpretation of the citizens' part of the Withdrawal Agreement for **eight years** after the end of the transition period. For questions related to the application of UK settled status, that eight-year period will start running on 30 March 2019.



The implementation and application of citizens' rights in the EU will be monitored by the European Commission, and in the UK by an independent national authority.

Part III: SEPARATION ISSUES

The Withdrawal Agreement provides the detailed provisions needed for the winding down of ongoing processes and arrangements related to:

GOODS PLACED ON THE MARKET

ONGOING MOVEMENT OF GOODS (CUSTOMS)

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

ONGOING JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS

DATA AND INFORMATION EXCHANGED BEFORE END OF TRANSITION

ONGOING PUBLIC PROCUREMENT

EURATOM

ONGOING JUDICIAL AND ADMINISTRATIVE PROCEDURES

FUNCTIONING OF THE EU INSTITUTIONS, AGENCIES AND BODIES

GOODS PLACED ON THE MARKET

Goods lawfully placed on the market in the EU or the UK before the end of the transition period may continue to freely circulate, without any need for product modifications or re-labelling.

Goods in the distribution chain at the end of the transition period:



can **reach their end-users** without having to comply with any additional product requirements; they may also be **put into service**.



will be subject to **continued oversight by the market surveillance authorities of the Member States and the UK**.



Exception: movement of live animals and animal products

As of the end of the transition period, these will be subject to applicable rules on imports and sanitary controls at the border, regardless of when they were placed on the market.

ONGOING MOVEMENT OF GOODS FROM A CUSTOMS PERSPECTIVE



For customs, VAT and excise purposes, movements of goods which **begin** before the end of the transition period will be allowed to complete their movement **under EU rules**.



After the end of the transition period, **EU rules will continue to apply to cross-border transactions that started before the transition period** in terms of VAT rights and obligations for taxable persons, such as reporting obligations, payment and refund of VAT.

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS



Existing EU unitary intellectual property rights (trademarks, design rights, plant variety rights etc.) will continue to be protected in the UK.

▶ All rights will be protected by the UK as **national intellectual property rights**. The conversion of the EU right into a UK right will be **automatic**, without any re-examination, and **free of cost**.

All categories of EU geographical indications remain protected

The full list of existing EU-approved geographical indications will be legally protected by the Withdrawal Agreement - unless and until a new agreement is concluded on the future relationship.

The UK will guarantee **at least the same level of protection** for the existing stock of geographical indications. This protection will be enforced through domestic UK legislation.

EU-approved geographical indications bearing names of UK origin (e.g. **Welsh Lamb, Scotch Whisky**) will continue to be protected in the EU.

ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

Ongoing UK police and judicial proceedings in criminal matters will be completed according to applicable EU rules.



* For the European Arrest Warrant, see rules applicable during transition

How will this work in practice?

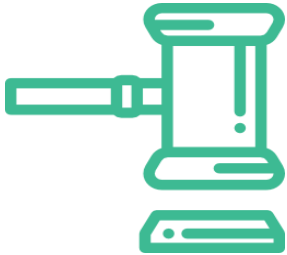
A person arrested by the UK on the basis of the **European Arrest Warrant*** will be surrendered to the Member State that was searching for this person.

A **joint investigation team** set up by the UK and other Member States will continue its investigations.

If an authority from an EU Member State receives a **UK request to confiscate proceeds of crime or to provide information** before the end of the transition period, it will be executed according to applicable EU rules.



ONGOING JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS



EU law in cross-border civil disputes will continue to apply to legal proceedings which began before the end of the transition period.

EU law on the recognition and enforcement of judgments will continue to apply in these cases.

How will ongoing judicial proceedings between companies be dealt with after the end of the transition period?

At the end of the transition period, litigation is pending between a Dutch company and a UK company before a UK court:

The UK court remains competent for hearing that case on the basis of EU law.

At the end of the transition period, a company is in legal proceedings against a UK company before a French court:

EU law on the recognition and enforcement of judgments continues to apply **in the UK** to the French court's **judgment**.

DATA AND INFORMATION EXCHANGED BEFORE END OF TRANSITION

After the end of the transition period, the UK will **continue applying EU data protection rules to the current “stock of personal data”**, until the EU, through an **adequacy decision**, establishes that the UK’s data protection rules provide safeguards which are essentially equivalent to those in the EU.



*EU data protection rules
until adequacy decision*

ONGOING PUBLIC PROCUREMENT



Pending public procurement procedures before the end of the transition period will be completed under the **same procedural and substantive rules**, in accordance with EU law.



EURATOM

The UK is fully responsible for **its nuclear safeguards** and is committed to a future regime that provides coverage and effectiveness **equivalent to existing Euratom arrangements.**

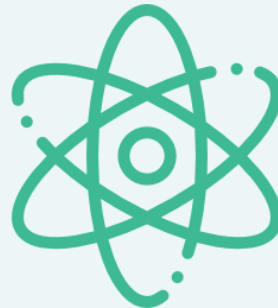
Transfer of ownership of UK equipment and other property related to safeguards from Euratom to the UK.

The EU will be **compensated** at book value.

Euratom's international agreements will no longer apply to the UK.

The UK needs to engage with international partners in that context.

The right of property of **Special Fissile Material** held in the UK by UK entities will be transferred from Euratom to the UK. For material held in the UK by EU27 undertakings, Euratom will maintain the right to approve future sale or transfer.



Ultimate **responsibility for spent fuel and radioactive waste** remains with the State where it was produced, in line with international conventions and European Atomic Energy Community legislation.

ONGOING JUDICIAL PROCEDURES

The Court of Justice of the European Union (CJEU) will remain competent

for all judicial procedures registered before the end of the transition period. Those procedures should continue until a final binding judgment is given in accordance with Union rules, including any appeals or referrals.

This allows for pending cases to be completed in an orderly way.

4 YEARS



New infringement cases against the UK may be brought before the CJEU for 4 years after the end of the transition period. These can concern breaches of EU law or non-compliance with EU administrative decisions before the end of the transition period or, in some cases, even after the end of the transition period.



The CJEU's jurisdiction for these new cases is consistent with **the principle that the termination of a Treaty shall not affect any right, obligation or legal situation of the parties created prior to its termination.**

This ensures **legal certainty and a level playing field** between the EU Member States and the UK, with respect to situations occurring when the UK was under EU law obligations.



ONGOING ADMINISTRATIVE PROCEDURES



All administrative procedures pending at the end of the transition period will continue to be handled according to EU rules.

During transition, **the UK remains fully bound by EU law. Therefore**, compliance with EU law and a level playing field with the other Member States should be ensured.

- ▶ This concerns procedures on issues such as competition and state aid, which were initiated before the end of the transition period by EU institutions, offices and agencies, and which concern the UK or UK natural or legal persons.
- ▶ **NEW CASES** can be brought for a period of **4 years** after the end of transition period in relation to:
 - ▶ **State aid cases** related to aid granted before the end of the transition period; and
 - ▶ **Investigations of the European Anti-Fraud Office (OLAF)** for facts that occurred before the end of the transition, or for customs debt arising after the end of the transition period.

FUNCTIONING OF THE UNION'S INSTITUTIONS, AGENCIES AND BODIES



Current EU **privileges and immunities** will remain for activities that took place before the end of the transition period.

Both parties will continue to ensure **compliance with obligations of professional secrecy**. Classified information and other documents obtained while the UK was a Member State should retain the **same level of protection** as before the end of the transition period.



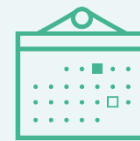
Part IV: TRANSITION

During the transition period, EU law continues to apply to and in the UK.

The EU will treat the UK as if it were a Member State, with the exception of participation in the EU institutions and governance structures.

The transition period will provide time to administrations, businesses and citizens to adapt.

And it will provide the EU and the UK with time to **negotiate the future relationship**.



Duration:
from 30 March 2019
to 31 December 2020

This takes into account the UK's request (around two years), and coincides with the current EU budgetary period (the Multiannual Financial Framework 2014-2020).

What happens during the transition period?

EU law continues to apply

to and in the UK as if it were a Member State

UK remains in the EU Customs Union and the Single Market

with all four freedoms, and all EU policies.

UK remains bound by obligations stemming from all EU international agreements.

In the area of trade, this means that third countries keep the same level of access to the UK market. The UK cannot apply new agreements in areas of EU exclusive competence, unless authorised to do so by the EU.

UK is no longer represented in EU institutions, agencies and bodies

Possible extension of the transition period

<i>Can only be extended once</i>
<i>Must be decided before 1 July 2020</i>
<i>By mutual EU-UK agreement</i>
<i>Up to 1 or 2 years</i>

During a possible extension of transition, **as of January 2021 the UK will no longer participate in the Multiannual Financial Framework:** it will only be able to participate in EU programmes as a third country

Extending the transition period will require **an appropriate financial contribution from the UK to the EU budget,** to be decided by the Joint Committee.

UK's participation in EU foreign and defence policies during the transition period

The Common Foreign and Security Policy will apply to the United Kingdom during the transition period.

In particular, the UK will implement the EU's sanctions regimes and support EU statements and positions in third countries and international organisations.

▶ The UK may participate in **EU military operations and civilian missions established under the Common and Security Defence Policy (CSDP)**, but without any leading capacity.

The UK will have the possibility to participate in projects of Common Foreign and Security Policy Agencies, including the European Defence Agency, but **without having any decision-making role.**



For example, the headquarters of the EU's anti-piracy military operation, **EU NAVFOR Somalia (Operation Atalanta)**, have been transferred from Northwood, UK, to Rota, Spain.

UK's participation in Justice and Home Affairs during the transition period

The EU's Justice and Home Affairs policy will continue to apply to the UK during the transition period.

European Arrest Warrant

The European Arrest Warrant will apply, but a Member State may refuse to surrender its own nationals to the UK in view of fundamental principles of its national law (Art. 185 of the Withdrawal Agreement).

The UK's right to OPT-IN and OPT-OUT

During the transition period, **the UK will not have the right to opt-in to completely new measures.**

The EU may nevertheless **invite the UK to cooperate** in relation to such new measures, under the conditions set out for **cooperation with third countries.**

The UK may choose to **exercise its right to opt-in/opt-out** with regard to measures amending, replacing or building upon those EU acts the UK was bound by during membership.

What are the consequences for fisheries?



The transition period provides clarity and predictability by **extending the applicability of the Common Fisheries Policy to the UK** (and the terms of relevant international agreements).

The UK will remain bound by decisions on fishing opportunities until the end of the transition period.

It will be consulted at various stages of the annual decision-making process in respect of its fishing opportunities.

Upon invitation by the EU and to the extent permitted by the particular forum, **the UK may attend - as part of the EU delegation - international consultations and negotiations in view of preparing its future membership** in relevant international fora.

Part V: FINANCIAL SETTLEMENT

The financial provisions of the Withdrawal Agreement ensure that both the UK and the EU will honour all financial obligations undertaken while the UK was a member of the EU.



European Council guidelines
29 April 2017:

The European Council guidelines requested a **single financial settlement** covering the EU budget, the termination of the United Kingdom's membership of all bodies or institutions established by the Treaties, and the participation of the UK in specific funds and facilities related to the Union policies.

The financial settlement covers all these points and settles the accounts.

The principles underlying the agreed methodology

1.

No Member State should pay more or receive less because of the UK's withdrawal from the EU.

2.

The UK should pay its share of the commitments made during its membership.

3.

The UK should neither pay more nor earlier than if it had remained a Member State.

NOTE: The agreement is not about the amount of the UK's financial obligation, but about how to calculate it.

What has been agreed?

The agreed methodology allows honouring all joint commitments vis-à-vis the EU budget (2014-2020), including outstanding commitments at the end of 2020 and liabilities which are not matched by assets.

The UK will also **continue to guarantee the loans made by the EU before its withdrawal** and will receive back its share of any unused guarantees and subsequent recoveries following the triggering of the guarantees for such loans.

EU Trust Funds and Facility for Refugees in Turkey

▶ The UK will honour all outstanding commitments of the EU Trust Funds and the Facility for Refugees in Turkey.



European Development Fund

▶ The UK will remain party to the European Development Fund and will continue to contribute to the payments necessary to honour all commitments related to the current 11th EDF as well as the previous Funds.



European Central Bank

▶ The UK's paid-in capital in the European Central Bank will be reimbursed to the Bank of England.



European Investment Bank

▶ The UK paid-in capital in the European Investment Bank will be reimbursed between 2019 and 2030 but will be replaced by an additional callable guarantee. The UK will maintain a guarantee of the stock of the EIB's outstanding operations from the date of withdrawal until the end of their amortisation.

How do you calculate the UK's share?

- The UK will **contribute to the 2019 and 2020 budget** and its share will be a percentage calculated as if it had remained a Member State. For obligations **post-2020**, the UK share will be established as a **ratio between the own resources provided by the UK** in the period **2014-2020** and the **own resources provided by all Member States** (including the UK) in the same period. This means that the **British rebate** is included in the UK's share.

What is the UK's share in EU wealth (assets – buildings and cash)?

- EU assets belong to the EU as the EU has its own legal personality and no Member State has any rights to EU assets. However, **the UK's part of the EU's liabilities will be reduced by corresponding assets**, because there is no need for financing liabilities which are covered by assets, so there is no need for the UK to finance them.

How long will the UK be paying for?

- The UK will be paying **until the last long-term liability has been paid**. The UK will not be required to pay sooner than if it had remained a member of the EU. Both sides may agree to some simplification.

Will the UK pay the pension liabilities of the EU civil service?

- **The UK will pay its share of the financing of pensions** and other employee benefits accumulated by end-2020. This payment will be made when it falls due, as it is the case for the remaining Member States.

What does this mean for EU projects & programmes?

All EU projects and programmes will be financed as foreseen under the current Multiannual Financial Framework (2014-2020).

This provides certainty to all beneficiaries of EU programmes, including UK beneficiaries, who will continue to benefit from EU programmes until their closure – except for financial instruments approved after withdrawal.



Part VI: Governance structure

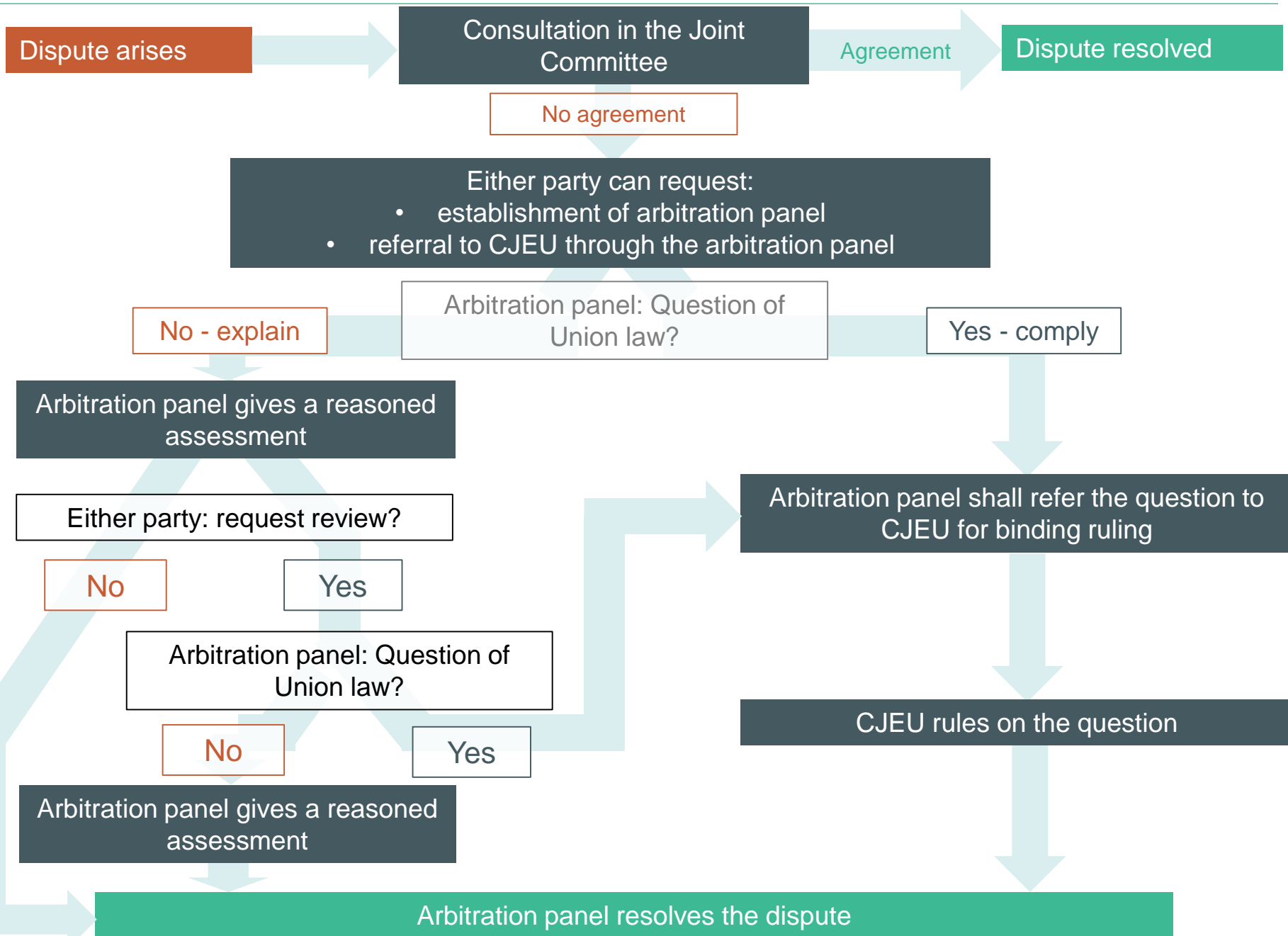
The Withdrawal Agreement includes the institutional arrangements to ensure the effective management, implementation and enforcement of the agreement, including an appropriate dispute settlement mechanism.



In the event of a dispute on the interpretation of the Agreement, an initial political consultation would take place in a **Joint Committee**. If no solution is found, either party can refer the dispute to binding arbitration. The decision of the **arbitration panel** will be binding on the EU and the UK. In case of non-compliance, the arbitration panel may impose a payment to be paid to the aggrieved party. However, if there is a question of Union law, the panel is obliged to refer it to the CJEU.



If compliance is still not restored, the Agreement allows parties to **suspend proportionately** the application of the Withdrawal Agreement itself, except for citizens' rights, or parts of other agreements between the Union and the UK. Such suspension is subject to review by the arbitration panel.





Panel finds infringement

Infringing party has to comply in reasonable period

Dispute about length of reasonable period: panel fixes it

At the end of the reasonable period, complainant can ask the panel to rule on compliance

Panel confirms compliance

Panel can impose lump sum or penalty payment

If infringing party does not pay within **1 month**, or pays but still fails to comply after **6 months**, complainant can suspend:

- any provision of the WA other than Part II
- parts of any other EU-UK Agreement

Dispute about compliance or proportionality of suspension: panel decides

No compliance

Panel confirms compliance

Dispute resolved

Protocol on Ireland/Northern Ireland

Objectives of the Protocol

- ▶ To ensure that there will be **no hard border between Ireland and Northern Ireland**.
- ▶ To set out the **UK's commitment to no diminution of rights as per the Good Friday (Belfast) Agreement 1998**, and to **protect North-South cooperation**.
- ▶ To provide the possibility to **continue the Common Travel Area arrangements** between Ireland and the UK, and to preserve the **Single Electricity Market** on the island of Ireland.

The EU and the UK negotiators have agreed on how to avoid a hard border between Ireland and Northern Ireland.

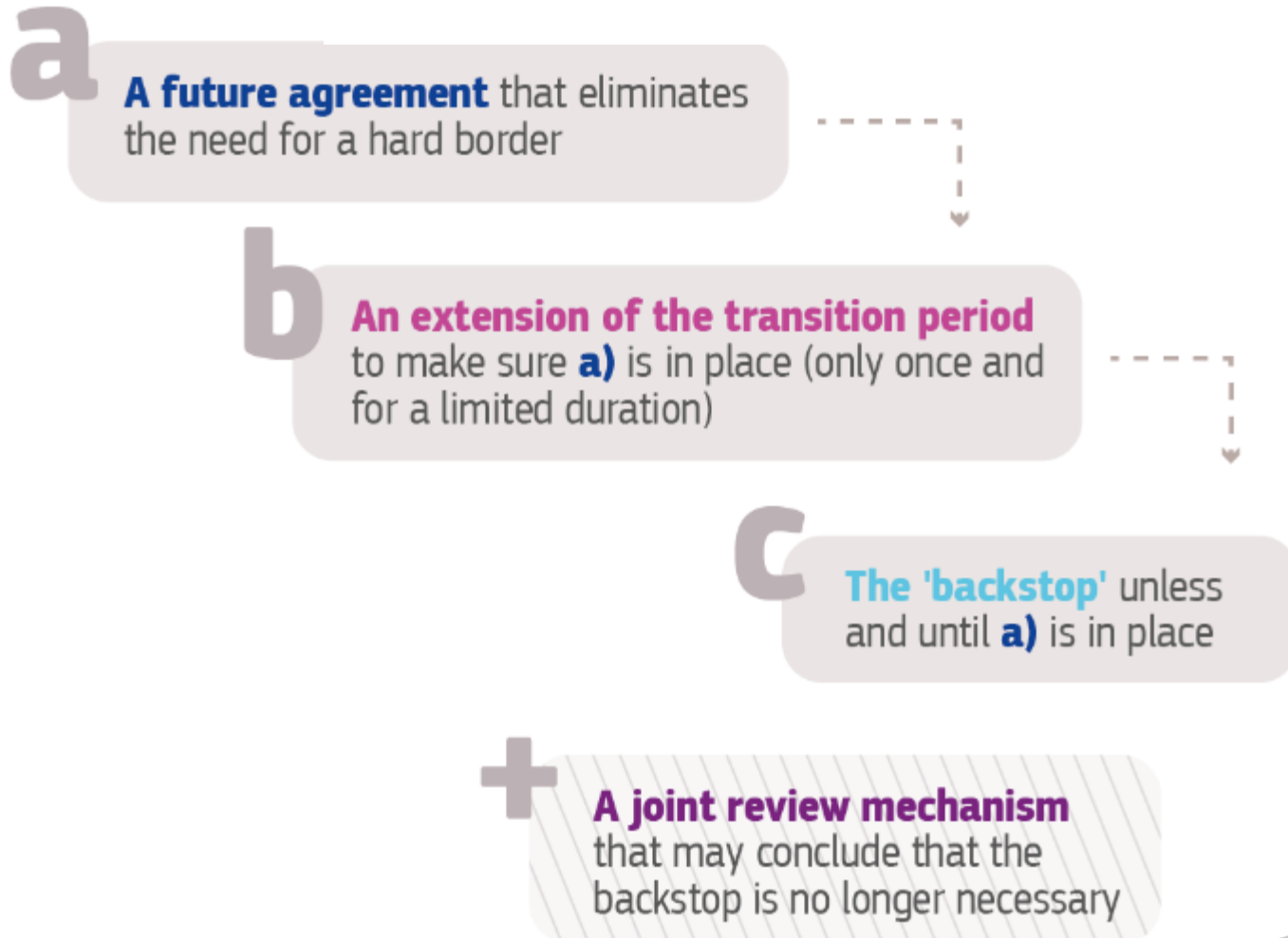
Both will use their best endeavours to have a future agreement concluded before the end of the transition period.

Should this not be the case, the EU and the UK could jointly **extend the transition period**.

Alternatively, as of January 2021, the backstop solution for Ireland and Northern Ireland would apply, subject to a joint review mechanism.

This agreement is the insurance policy that guarantees that, whatever the circumstances, there will be no hard border between Ireland and Northern Ireland and that the Good Friday (Belfast) Agreement 1998 will be protected in all its dimensions, as well as North-South cooperation, and the all-island economy.

3 OPTIONS TO AVOID A HARD BORDER AFTER THE END OF THE TRANSITION PERIOD



What is the Single Customs Territory?

**It comprises the customs territory of the EU
and the customs territory of the UK.**

This means that, in the scenario where the "backstop solution" would apply:

1. the UK will **align the tariffs and rules applicable to its customs territory** to the EU's external tariffs and rules of origin;

2. there will be **no tariffs, quotas and checks on rules of origin** between the EU and the UK, with the exception of **fishery and aquaculture products**;

3. the EU and the UK have agreed on **level playing field commitments** and appropriate enforcement mechanisms to ensure fair competition between the EU27 and the UK.

4. The **Union shall apply its trade defence policy and Generalised System of Preferences** to both parts of the Single Customs Territory; it shall consult the UK on any measures or actions which it considers taking.

Arrangements on fisheries will be negotiated as part of the overall future partnership.

The EU and the UK will use their best endeavours to agree on a fisheries and aquaculture agreement by 1 July 2020.

An essential condition for this Single Customs Territory to cover fisheries and aquaculture products will be to agree on access to waters and fishing opportunities.

- **Veterinary / Phyto sanitary authorities (SPS – BIP)**
- **Security authorities**



Customs in cooperation with



Market Surveillance Authorities

Security & Safety controls AT THE BORDER

- Pre-arrival declarations security controls ('bomb in the box')
- Live animals
- Products of animal origin
- Animal by-products not intended for human consumption
- Personal consignments of products of animal origin
- Plastic kitchenware from China and Hong Kong
- Fresh fruit and vegetables
- High risk food and feed of non-animal origin
- Okra, curry leaves from India
- Unauthorised GM rice in rice products from China
- Food and feed from Fukushima
- Guar gum from India
- Plant health
- Pelts of certain animal species originating from countries using leghold traps
- Invasive alien species

Financial Controls AT CUSTOMS OFFICE OF IMPORT

- Risk based controls on the basis of customs declarations for all goods placed under a customs procedure (Union Customs Code)
- Classification of goods
- **Origin/Proof of status free circulation**
- Customs value
- ~~Customs duties~~
- VAT
- Excise

Market Surveillance AT CUSTOMS OFFICE OF IMPORT

- For industrial products
- Checks based on risk assessment, suspension of release for free circulation, decision by market surveillance authorities, refusal, or authorisation to release
- Ensure that only compliant products are placed on the Union market (Regulation (EC) no 765/2008)
- 68 legal instruments harmonising EU rules on non-food products (e.g. type-approval of motor vehicles, safety of toys, ozone layer depleting substances, CE-marking, EU Ecolabel, pyrotechnic articles, explosives for civil uses, personal protective equipment)
- Specific rules for medicinal products for human and veterinary use

Customs Union

Will Northern Ireland remain aligned to EU rules and regulations?

In the scenario where the "backstop solution" would apply, the UK in respect of Northern Ireland will maintain specific regulatory alignment with the EU.

To avoid a hard border on the island of Ireland, and to ensure that Northern Irish businesses can bring products into the EU's Single Market without restriction, Northern Ireland will remain aligned to a limited set of EU rules that are indispensable for avoiding a hard border, namely:

legislation on VAT and excise in respect of goods

legislation on product requirements

sanitary rules for veterinary controls ("SPS rules")

rules on agricultural production/marketing

state aid rules

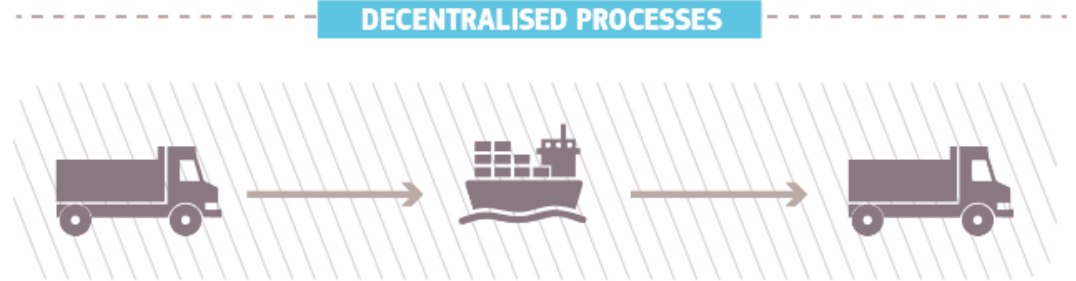
The EU's Customs Code will also continue to apply in Northern Ireland within the overall context of the Single Customs Territory between the EU and the UK.

How will the backstop work between Great Britain and Northern Ireland?

In order to ensure that Northern Irish businesses can bring products into the EU's Single Market without restrictions and without checks at the border between Ireland and Northern Ireland, there would be a need for checks on goods travelling from the rest of the UK to Northern Ireland.

There would be a need for some compliance checks with EU standards, consistent with risk, to protect consumers, economic traders and businesses in the Single Market.

The EU and the UK have agreed to carry out these checks in the least intrusive way possible. The scale and frequency of the checks could be further reduced through future agreements between the EU and the UK.



FROM LIVERPOOL...

- ✔ Online declaration, e.g. transit (in advance)

CHECKS



For industrial products:
Barcode (Movement Reference Number) scanned in transit port or during ferry crossing

ONLY SYSTEMATIC CHECKS AT NORTHERN IRELAND PORTS AND AIRPORTS



For live animals, plants and animal products:
Sanitary and phytosanitary checks




...TO BELFAST

Checks at destination:

- ✔ Risk-based controls at destination*
- ✔ Regulatory compliance checks by market surveillance authorities when goods are placed on the market

*Risk analysis based on information-sharing between relevant authorities to better stop non-compliant goods at the border

These processes will:

-  **Protect consumers** from unsafe products
-  **Guarantee public and animal health**
-  **Prevent fraud** and trafficking of illegal goods

What "level playing field" measures have been agreed?






Economic interconnectedness and geographic proximity

are key elements to take into account when regulating the proper functioning of **open and fair competition** in the single EU-UK customs territory.

The Protocol binds the UK to **substantive rules**, based on EU and international standards, **adequate mechanisms for implementation**, as well as **enforcement and dispute settlement mechanisms**.

Provisions on environment, labour and social protection are based on the **principle of non-regression** from current levels of protection under EU and international standards; **dynamic alignment** applies in state aid.



Level playing field measures	Substantive rules	Enforcement in UK	Dispute settlement
 <p>STATE AID affecting EU/NI trade affecting EU/GB trade</p>	Dynamic alignment to EU rules	European Commission	CJEU
	Dynamic alignment to EU rules	UK independent authority	Joint Committee and arbitration
 <p>COMPETITION</p>	Reflecting EU law and linked to evolution thereof	UK independent authority	Joint Committee and arbitration on UK enforcement
 <p>TAXATION</p>	Commitment to good tax governance	UK authorities	Joint Committee
	'Freezing' of UK law implementing 3 directives*		Joint Committee and arbitration
	UK commits to Code of Conduct		Joint Committee
 <p>ENVIRONMENT</p>	Non-regression, 'freezing' 2030 quantitative targets	UK independent authority	Joint Committee and arbitration on UK enforcement
 <p>LABOUR AND SOCIAL STANDARDS</p>	Non-regression	UK authorities	Joint Committee and arbitration on UK enforcement

Level playing field measures (1/5)

STATE AID

Two situations: **A:** Aid affects EU/Northern Ireland trade - **B:** Aid affects EU/Great Britain trade

SUBSTANTIVE RULES

UK applies EU state aid rules in full.

Dynamic alignment.



ENFORCEMENT IN THE UK

A: No need: European Commission continues to enforce State aid rules directly as part of the backstop solution if it applies. CJEU remains competent.

B: UK to set up an independent enforcement authority, with the same powers of the European Commission and under the review of UK national courts.

Cooperation procedure between the independent authority and the European Commission.

The latter will also have legal standing before UK courts.

DISPUTE SETTLEMENT

A: No need, given control by the European Commission and the CJEU.

B: Dispute resolution mechanism, including arbitration with CJEU reference, and sanctions. Possibility of adopting interim measures.

Level playing field measures (2/5)

COMPETITION (excl. state aid)

SUBSTANTIVE RULES

Replication of TFEU rules on:

- distortive agreements,
- abuse of dominance,
- monopolies

Equivalent norms on control of concentrations

EU acquis and case-law as sources of interpretation

Requirement to respect international standards on State Owned Enterprises and ensure regulation is non-discriminatory.

ENFORCEMENT IN THE UK

Requirement to translate TFEU rules into domestic law and have a domestic independent competition enforcement authority (= today, CMA) and judicial review system.

Requirement to have effective monitoring and enforcement of obligations.



DISPUTE SETTLEMENT

Substantive rules subject to dispute resolution at Joint Committee, excluded from arbitration.

Dispute resolution with arbitration on UKs commitment for monitoring and enforcement.

Level playing field measures (3/5)

TAXATION

COMMITTMENT

Good tax governance clause and implementation of global tax/OECD BEPS standards.

UK reaffirms commitment to curb harmful tax measures and EU Code of Conduct on business taxation.

UK continues to apply domestic law transposing EU Directives on: exchange of tax information; anti-tax avoidance rules; and Country-by-Country-Reporting by credit institutions / investment firms.

ENFORCEMENT IN THE UK

Application of good tax governance principles in policy making by UK authorities.

Application of the EU Code of Conduct principles in policy making by UK authorities.

Application of precisely defined legislative provisions comes with the usual domestic implementation mechanism (by UK tax authorities).



DISPUTE SETTLEMENT

All matters related to good tax governance clause and the implementation of the Code of Conduct to be discussed at Joint-Committee

Full dispute settlement, including arbitration on UK application of retained provisions of domestic law transposing EU Directives (including with reference to ECJ).

Level playing field measures (4/5)

ENVIRONMENT

SUBSTANTIVE RULES

Non regression - no lowering of level of protection below EU standards at end of transition in all key areas.

Respect of key environmental principles, including precautionary principle, "polluter pays" principle.

Specific targets based on EU law for key areas, e.g. industrial emissions, national emissions ceilings.

Necessary measures to meet both parties' commitments to international agreements on climate change, including the Paris Agreement.

The UK will implement a system of carbon pricing at least as effective as the EU Emission Trading Scheme for greenhouse emission allowances.

ENFORCEMENT IN THE UK

UK commitment to effective enforcement of the non-regression commitment and of its laws, regulations and practices reflecting the common standards.

UK commitment to the maintenance of an effective administrative and judicial proceedings and effective remedies.

UK to set-up a domestic independent body with monitoring, reporting, oversight and enforcement powers of its environmental commitments, equivalent to those of the Commission.

DISPUTE SETTLEMENT

Substantive rules subject to dispute resolution at Joint Committee.

Full dispute resolution including arbitration on effectiveness of UK's enforcement system at meeting non-regression commitments and on the set up and conduct of the independent body.



Level playing field measures (5/5)

LABOUR AND SOCIAL PROTECTION

COMMITTMENT

Non regression - no lowering of level of protection below EU standards at end of transition in the area of labour and social protection and in relation to fundamental rights at work, occupational health and safety, fair working conditions and employment standards, information and consultation rights at company level and restructuring.

Commitment to effective implementation of the International Labour Organisation Conventions and the Council of Europe's Social Charter.

ENFORCEMENT IN THE UK

UK commitment to effective enforcement of the non-regression commitment and of its laws, regulations and practices reflecting the common standards

UK commitment to the maintenance of an effective system of labour inspections, effective administrative and judicial proceedings and effective remedies.



DISPUTE SETTLEMENT

Substantive rules subject to dispute resolution at Joint Committee.

Full dispute resolution, including arbitration on effectiveness of UK's enforcement system at meeting non-regression commitments.

Review mechanism

If at any time after the transition period, the EU or the UK considers that this Protocol, in whole or in part, is no longer necessary, it may notify the other party, setting out its reasons.

The Joint Committee will consider the notification and may seek an opinion from institutions created by the Good Friday (Belfast) Agreement 1998.

Following discussions in the Joint Committee, the EU and the UK may decide jointly that the Protocol, in whole or in part, is no longer necessary to achieve its objectives.

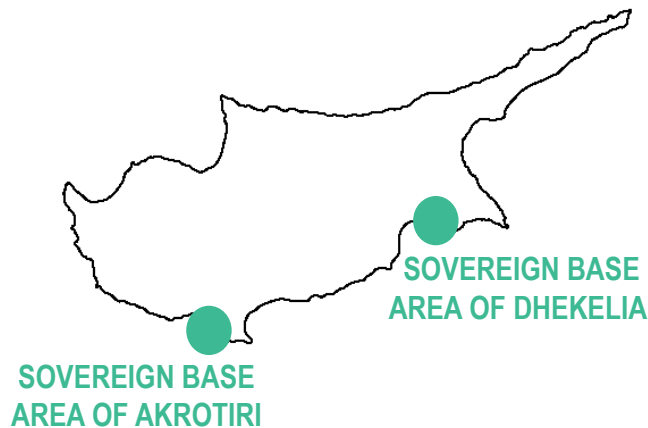
What else does the Protocol contain beyond the "backstop"?

The Protocol on Ireland and Northern Ireland contains provisions that address a number of other unique circumstances on the island of Ireland, most notably:

THE COMMON TRAVEL AREA BETWEEN IRELAND AND THE UNITED KINGDOM	UK COMMITMENT TO NO DIMINUTION OF RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY	THE SINGLE ELECTRICITY MARKET	NORTH-SOUTH COOPERATION
<p>and its associated rights and privileges can continue to apply in conformity with EU law, in particular on free movement of EU citizens.</p>	<p>as set out in the Good Friday (Belfast) Agreement 1998, including with regard to EU law on non-discrimination. This commitment will be implemented and monitored through dedicated mechanisms.</p>	<p>can be preserved on the island of Ireland.</p>	<p>can continue, including in the areas of environment, health, agriculture, transport, education and tourism, as well as in the areas of energy, telecommunications, broadcasting, inland fisheries, justice and security, higher education and sport.</p>

Protocol on the Sovereign Base Areas (SBAs) in Cyprus

- ▶ The Protocol protects the interests of Cypriots who live and work in the Sovereign Base Areas following the UK's withdrawal from the Union.



The aim of the Protocol is to ensure that EU law, in the areas stipulated in Protocol 3 to Cyprus's Act of Accession to the Union, will continue to apply in the Sovereign Base Areas, with no disruption or loss of rights **especially for the thousands of Cypriot civilians living and working in the Sovereign Base Areas.**

This applies to a number of policy areas such as **customs, taxation, goods, agriculture, fisheries** and **veterinary and phytosanitary rules.**

The territory of the Sovereign Base Areas will continue to be **part of the customs territory of the Union.** Goods produced in the Sovereign Base Areas will be considered to be goods in free circulation in the EU.

The Protocol confers **responsibility on the Republic of Cyprus for the implementation and enforcement of Union law** in relation to most of the areas covered, with the exception of aspects related to the application of the Green Line Regulation.

Protocol on Gibraltar

The European Council guidelines of 29 April 2017 set out that "*no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom.*"

As a result of bilateral negotiations between Spain and the UK, the Protocol on Gibraltar forms a package with bilateral **memoranda of understanding** between Spain and UK in respect of Gibraltar.

- ▶ The Protocol provides for administrative cooperation between Spain and the UK in respect of Gibraltar in a number of policy areas during the transition period, and on the implementation of the citizens' rights part of the Withdrawal Agreement.

This concerns **bilateral cooperation on citizens' rights, tobacco and other products, environment, police and customs matters**, as well as a bilateral agreement in relation to **taxation** and the **protection of financial interests**.

A **specialised committee** is also established for overseeing the application of this Protocol.

What does the Withdrawal Agreement say on the future relationship negotiations?

The EU and the UK will use their best endeavours to negotiate the agreements on the future relationship expeditiously.

They both commit to act in good faith.

The common goal is to make sure that such agreements apply from the end of the transition period to the extent possible.

The use of the best endeavours must fully respect the legal orders of the EU and the UK.

This means that negotiations will only start once the UK will have left the EU.