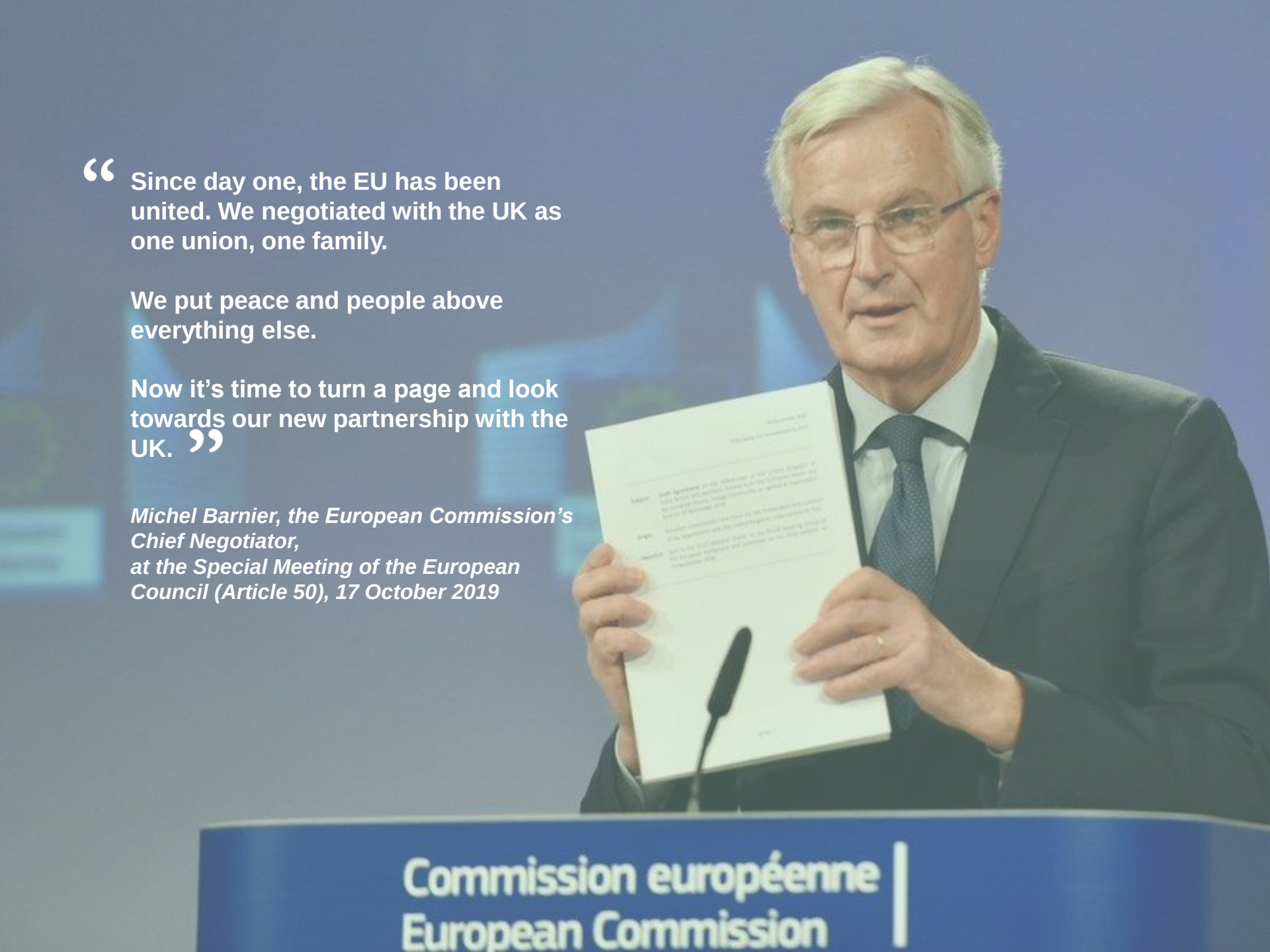








The revised EU-UK Withdrawal Agreement EXPLAINED



“Since day one, the EU has been united. We negotiated with the UK as one union, one family.

We put peace and people above everything else.

Now it’s time to turn a page and look towards our new partnership with the UK.”

Michel Barnier, the European Commission’s Chief Negotiator,
at the Special Meeting of the European Council (Article 50), 17 October 2019

WHAT IS THE WITHDRAWAL AGREEMENT?

The Withdrawal Agreement ensures that the United Kingdom (UK) leaves the European Union (EU) in **an orderly manner**.



The agreement brings legal certainty where the UK's withdrawal from the EU created uncertainty:

- Citizens' rights,
- The financial settlement,
- A transition period at least until the end of 2020,
- Governance,
- Protocols on Ireland/Northern Ireland, Gibraltar and Cyprus,
- Other separation issues.

European Commission

A TIMELINE OF KEY EVENTS

29 March 2017

Withdrawal notification

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

19 June 2017

Start of Negotiations

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

8 December 2017

Joint Report

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

Commission recommends to the European Council (Art. 50) to conclude that **sufficient progress** has been made in the first phase of the negotiations

19 March 2018

Draft Withdrawal Agreement

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

19 June 2018

Joint Statement

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

14 November 2018

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.

25 November 2018

Withdrawal Agreement

Political Declaration

EU leaders endorse the Withdrawal Agreement and approve the Political Declaration on the framework for the future relationship.

European Commission

A TIMELINE OF KEY EVENTS

15 January
12 March
29 March 2019

Vote in the House of Commons

The House of Commons rejects the agreed package (Withdrawal Agreement – further clarified by the Joint Instrument of March 2019 – and Political Declaration)

22 March
10 April 2019

Extension of Article 50 period

European Council grants an extension until **12 April** and subsequently a further extension until **31 October 2019**

17 October 2019

A new agreement

Negotiators reach an agreement on **the revised Protocol on Ireland / Northern Ireland** included in the Withdrawal Agreement and on **the revised Political Declaration**

17 October 2019

Commission's decision

Commission recommends to the European Council (Art. 50) to endorse **the revised text of the Withdrawal Agreement** and to approve **the revised Political Declaration**

17 October 2019

Revised Withdrawal Agreement

Revised Political Declaration

EU leaders endorse the revised Withdrawal Agreement and approve the revised Political Declaration on the framework for the future relationship

European Commission

Steps to conclude the Agreement on the EU side

European Council (Art.50)	European Commission	Council (Art.50)	European Parliament	Council (Art.50)
Endorses the Withdrawal Agreement	**Proposes to the Council** to authorise the signature and to conclude the Withdrawal Agreement	**Authorises signature** of Withdrawal Agreement and **refers to the European Parliament** for consent procedure	**Consent procedure**	**Concludes** the Withdrawal Agreement

The UK ratifies the Withdrawal Agreement
according to its own constitutional arrangements.
Following the UK's request and with a view to allowing for the ratification, the European Council (Art. 50) on 29 October 2019 grants **a further extension until 31 January 2020**

European Commission

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**

European Commission

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

European Commission

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.

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.

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.

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.

Financial settlement (Part V)

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

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 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.
- Protection of the all-island economy.

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 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.

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.

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.

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.

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 on the day of withdrawal.

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**

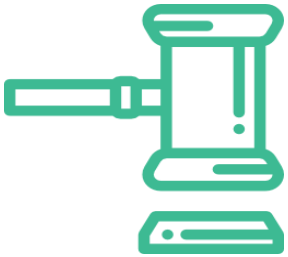
How will this work in practice?

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.**

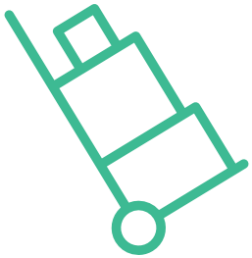
DATA AND INFORMATION EXCHANGED BEFORE END OF TRANSITION

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:

Until 31 December 2020, which can be extended once, by up to one or two years

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

European Commission

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

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

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.

European Commission

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

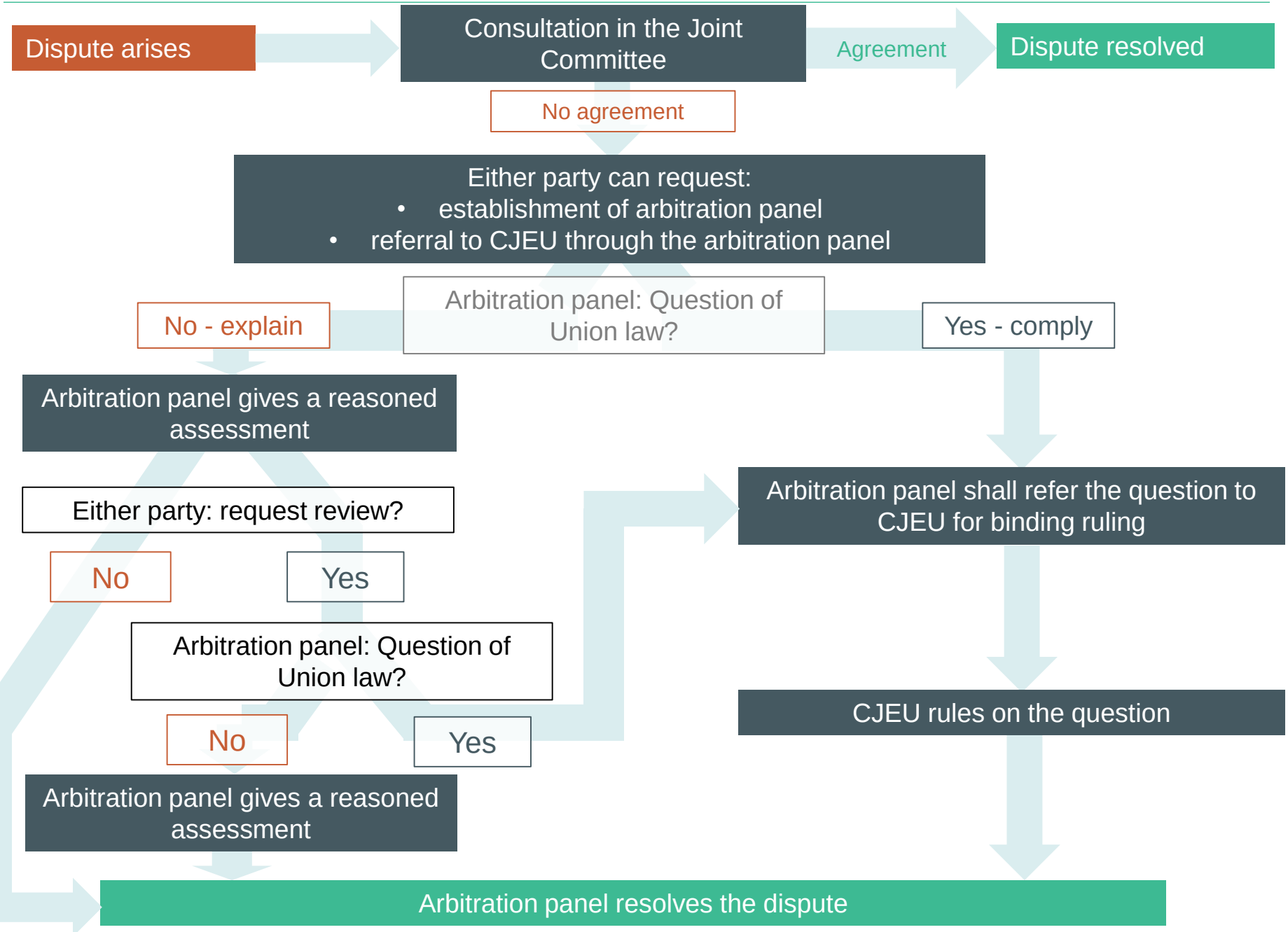
The Withdrawal Agreement includes the institutional arrangements to ensure the effective management, implementation and enforcement of the agreement, including an appropriate dispute settlement mechanism.



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.


Dispute arises
Consultation in the Joint Committee
Agreement
Dispute resolved
No agreement
Either party can request:
• establishment of arbitration panel
• referral to CJEU through the arbitration panel
Arbitration panel: Question of Union law?
No - explain
Yes - comply
Arbitration panel gives a reasoned assessment
Either party: request review?
No
Yes
Arbitration panel shall refer the question to CJEU for binding ruling
Arbitration panel: Question of Union law?
No
Yes
CJEU rules on the question
Arbitration panel gives a reasoned assessment
Arbitration panel resolves the dispute



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

Revised Protocol on Ireland / Northern Ireland

Objectives of the Protocol

The revised Protocol provides a legally operational solution in order to:

- ✓ Avoid a hard border on the island of Ireland
- ✓ Protect the all-island economy and the Good Friday (Belfast) Agreement in all its dimensions
- ✓ Safeguard the integrity of the Single Market
- ✓ Ensure that Northern Ireland remains in the UK's customs territory and benefits from participation in the UK's independent trade policy

The Protocol responds to the unique circumstances on the island of Ireland with the aim of protecting peace and stability.

The revised Protocol includes solid guarantees to preserve the integrity of the EU's Single Market

To avoid a hard border on the island of Ireland, and ensure that Northern Irish businesses can bring products into the EU's Single Market without restriction, **while protecting the integrity of the Single Market**, 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 and other customs legislation will apply to all goods entering Northern Ireland

NB: The level playing field provisions in the November 2018 Withdrawal Agreement were directly related to the EU/UK Single Customs Territory agreed at that point. Since the revised Protocol no longer provides for a Single Customs Territory, the level playing field chapter was also not retained.

Level playing field provisions are now addressed in the Political Declaration (see slide 51).

The revised Protocol explicitly recognises that Northern Ireland is part of the customs territory of the United Kingdom

It means that:

- ✓ Northern Ireland can be included in the territorial scope of the UK's independent trade policy*
- ✓ The UK can negotiate access to third country markets for Northern Irish goods on the same terms as goods from elsewhere in the UK
- ✓ The UK can include Northern Ireland in the territorial scope of its Schedules of Concessions annexed to the GATT

***** Provided that this does not prejudice the application of the Protocol

Examples of trade flows: customs and regulatory checks

EXAMPLE 1: Great Britain to Northern Ireland



LIVERPOOL
Exit modalities / formalities (if any) for UK to determine.

BELFAST
EU import formalities (incl. entry summary declaration and customs declaration) and checks

Relevant authority
- UK authorities will apply relevant EU rules and carry out any checks required.
- EU institutions have same oversight as today (e.g. full ECJ competence).
- In addition, EU representatives have the right to be present during checks, request information, and direct UK to carry out checks.

Checks and controls of product safety
- Live animals, animal products and plants: systematic SPS (sanitary and phytosanitary) checks at entry point.
- Industrial products: risk-based checks at entry point

Tariffs
- No tariff: if good is not subject to commercial processing and not at risk of entering the EU.
- EU tariff: if good is subject to commercial processing or at risk of entering the EU.
- Joint Committee will set out criteria for when a good is not “at risk” of entering the EU and will not be subject to EU tariffs.

Other
- EU legislation on VAT and excise applies.

Examples of trade flows: customs and regulatory checks

EXAMPLE 2: Northern Ireland to Great Britain



- **BELFAST**
  EU export formalities/ pre-departure declaration

- **LIVERPOOL**
  Entry modalities / formalities (if any) for UK to determine in accordance with international obligations (World Trade Organisation, Free Trade Agreements, etc.).

The “consent” mechanism

The EU and the UK agreed to give the Northern Ireland Assembly a decisive voice on the long-term application of relevant EU law in Northern Ireland.

This consent mechanism concerns the substantive issues of regulatory alignment on:

- ✓ **goods,**
- ✓ **customs,**
- ✓ **the Single Electricity Market,**
- ✓ **VAT,**
- ✓ **State aid.**

After 4 years, the Northern Ireland Assembly will be able to decide, by simple majority, whether to continue applying relevant Union rules in Northern Ireland.

In case the Northern Ireland Assembly does not give consent, there will be a cooling off period of 2 years, during which the EU and the UK will have to decide what measures must be taken.

What else does the Protocol contain beyond the solution to avoid a hard border?

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

and its associated rights and privileges can continue to apply in conformity with EU law, in particular on free movement of EU citizens.

UK COMMITMENT TO NO DIMINUTION OF RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY

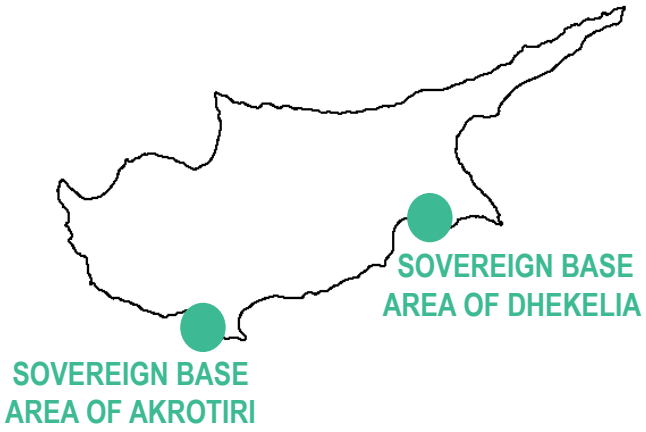
as set out in the Good Friday (Belfast) Agreement 1998, including with regard to EU law on non-discrimination. This commitment will be implemented and monitored through dedicated mechanisms.

NORTH-SOUTH COOPERATION

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. The Single Electricity Market on the island of Ireland is also preserved.

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.

European Commission

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.

European Commission

REVISED POLITICAL DECLARATION ON THE FUTURE RELATIONSHIP

The Political Declaration contains the shared ambition to have a Free Trade Agreement with zero tariffs and quotas between the EU and the UK. It states that robust commitments on a level playing field should ensure a future relationship based on open and fair competition.

The precise nature of commitments will be commensurate with the ambition of the future relationship and the economic connectedness of the UK and the EU.

This necessitates safeguards to ensure a level playing field that does not lower the common high standards applicable today in the areas of:

- **state aid,**
- **competition,**
- **social and employment standards,**
- **environment and climate change,**
- **relevant tax matters,**

in order to avoid unfair competitive advantages to either the EU or the UK.

There will have to be appropriate mechanisms for enforcement domestically as well as for dispute settlement between the EU and the UK.