



Brussels, 8.12.2017
COM(2017) 784 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN COUNCIL
(ARTICLE 50)**

**on the state of progress of the negotiations with the United Kingdom under Article 50 of
the Treaty on European Union**

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1. Introduction

The purpose of the present Communication is to provide the European Council (Article 50) with the European Commission's assessment of the state of progress of the negotiations with the United Kingdom under Article 50 of the Treaty on European Union, in view of its meeting on 15 December 2017.

The negotiations have been conducted between the Commission, nominated by the Council as the Union negotiator, and the United Kingdom. The Heads of State or Government invited the Council to nominate the Commission as Union negotiator in their Statement of 15 December 2016.¹ The Commission's nomination of Michel Barnier as Chief Negotiator was welcomed by Heads of State or Government. On 29 April 2017, the European Council (Article 50) adopted Guidelines following the United Kingdom's notification under Article 50 TEU (the Guidelines) which confirmed the role of the Commission as the Union negotiator.²

The European Council (Article 50) on 15 December 2017 is scheduled to discuss and determine whether sufficient progress has been made in the first phase of the negotiations on the orderly withdrawal of the United Kingdom from the European Union, allowing the negotiations to proceed to their second phase.

The Commission's assessment, as set out below, is based on the Joint Report agreed by the negotiators of the Commission and of the United Kingdom Government. The Joint Report was published on 8 December 2017: https://ec.europa.eu/commission/files/joint-report-negotiators-european-union-and-united-kingdom-government-progress-during-phase-1-negotiations-under-article-50-teu-united-kingdoms-orderly-withdrawal-european-union_en

Throughout the negotiations, the Commission has ensured an inclusive process with close contacts and regular meetings with the EU27. The Commission has also been in close and regular contact with the European Parliament to ensure that its views and positions are duly taken into account. On 4 December 2017, President Juncker met with the European Parliament's Brexit Steering Group to take stock of progress on three withdrawal issues, including with regard to the important issue of citizens' rights.

The negotiations have been carried out with unprecedented transparency. Each of the essential principles papers defining the Commission's negotiating position, the agenda of every negotiating round, as well as the Commission's recommendation to open negotiations have been published.³

The Joint Report is not the Withdrawal Agreement. Should the European Council consider that sufficient progress has been made in the negotiations, the Withdrawal Agreement based on Article 50 of the Treaty on European Union will need to be drafted on the basis of the Joint Report and the outcome of the negotiations on other withdrawal issues. The Withdrawal

¹ <http://www.consilium.europa.eu/media/24173/15-euco-statement.pdf>

² The role of the Commission was confirmed by Council Decision of 22 May 2017 nominating the Commission as the Union negotiator, see <http://data.consilium.europa.eu/doc/document/XT-21016-2017-INIT/en/pdf>.

³ https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en?field_core_tags_tid_i18n=351

Agreement will be concluded by the Council upon a proposal from the Commission, and after obtaining consent of the European Parliament, and is subject to approval by the United Kingdom in accordance with its own procedures.

2. Background

On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the European Union in accordance with Article 50 TEU. On 29 April 2017, the European Council (Article 50) adopted its Guidelines (hereafter the ‘Guidelines’)⁴, and on 22 May 2017, the General Affairs Council (Article 50) authorised the Commission to open negotiations with the United Kingdom and adopted directives for the negotiation (hereafter the ‘negotiating directives’)⁵.

According to point 4 of the Guidelines, *‘the first phase of the negotiations will aim to:*

- *provide as much clarity and legal certainty as possible to citizens, businesses, stakeholders and international partners on the immediate effects of the United Kingdom’s withdrawal from the Union;*
- *settle the disentanglement of the United Kingdom from the Union and from all the rights and obligations the United Kingdom derives from commitments undertaken as Member State.*

*The European Council will monitor progress closely and **determine when sufficient progress has been achieved to allow negotiations to proceed to the next phase.***⁶

Point 5 of the Guidelines indicates that *‘[w]e stand ready to engage in preliminary and preparatory discussions to this end in the context of negotiations under Article 50 TEU, as soon as the European Council decides that **sufficient progress has been made in the first phase towards reaching a satisfactory agreement on the arrangements for an orderly withdrawal.***⁷

The negotiating directives indicate in point 3 that the main objective of the Withdrawal Agreement is *‘to ensure an orderly withdrawal of the United Kingdom from the European Union and from the European Atomic Energy Community.’*

Furthermore, the negotiating directives state in point 10 that *‘these negotiating directives prioritise some matters which, at this stage, have been identified as necessary to ensure an orderly withdrawal of the United Kingdom from the Union. Other matters not covered by this set of negotiating directives, such as services, will be part of subsequent sets of negotiating directives.’*

In its conclusions of its meetings on 20 October 2017⁸, the European Council (Article 50) stated that *‘[i]n the light of the first five rounds of negotiations, taking into account the assessment presented by the Union negotiator and reaffirming its guidelines of 29 April 2017, the European Council:*

⁴ EUCO XT 20004/17, available at <http://www.consilium.europa.eu/media/21763/29-euco-art50-guidelinesen.pdf>.

⁵ XT 21016/17, available at <https://www.consilium.europa.eu/media/21766/directives-for-the-negotiation-xt21016-ad01re02en17.pdf>

⁶ Bold added.

⁷ Idem.

⁸ EUCO XT 20014/17, available at <http://www.consilium.europa.eu/media/23512/20-euco-conclusions-art50.pdf>.

• *welcomes the progress made regarding citizens' rights and invites the negotiator to build on the convergence achieved so as to provide the necessary legal certainty and guarantees to all concerned citizens and their family members who shall be able to exercise directly their rights derived from EU law and protected by the [W]ithdrawal [A]greement, including through smooth and simple administrative procedures and the role of the Court of [J]ustice of the European Union;*

• *acknowledges that, as regards Ireland, there has been some progress on convergence on principles and objectives regarding protection of the Good Friday Agreement and maintenance of the Common Travel Area, and invites the Union negotiator to pursue further refinement of these principles, taking into account the major challenge that the UK's withdrawal represents, including as regards avoidance of a hard border, and therefore expecting the UK to present and commit to flexible and imaginative solutions called for by the unique situation of Ireland;*

• *notes that, while the UK has stated that it will honour its financial obligations taken during its membership, this has not yet been translated into a firm and concrete commitment from the UK to settle all of these obligations' (point 1).*

The European Council (Article 50) furthermore stated that '*[a]t its next session in December, the European Council will reassess the state of progress in the negotiations with a view to determining whether sufficient progress has been achieved on each of the three above issues. If so, it will adopt additional guidelines in relation to the framework for the future relationship and on possible transitional arrangements which are in the interest of the Union and comply with the conditions and core principles of the guidelines of 29 April 2017. Against this background, the European Council invites the Council (Art. 50) together with the Union negotiator to start internal preparatory discussions' (point 3).*

3. The first phase of the negotiations

The negotiating directives have provided for a clear structure and a united EU approach to the negotiations. Throughout the negotiations, the EU has maintained its unity and acted as one.

The Commission's Chief Negotiator, Michel Barnier, has made clear from the outset that the Commission was available to negotiate at any time. In practice, there have been six negotiation rounds with the United Kingdom:

- the first round on 19 June 2017;
- the second round from 17 to 20 July 2017;
- the third from 28 to 31 August 2017;
- the fourth from 25 to 28 September 2017;
- the fifth from 9 to 12 October 2017; and
- the sixth on 9 and 10 November 2017.

Subsequently, the Commission and United Kingdom negotiators have had constant direct contacts.

While progress has been made on a number of elements relating to the orderly withdrawal, in line with the Guidelines and the negotiating directives, the first phase of negotiations has given priority to three issues which have been identified as particularly important for ensuring an orderly withdrawal:

- a) the rights of citizens;

- b) the dialogue on Ireland/Northern Ireland; and
- c) the financial settlement.

In addition, the negotiations covered other separation issues, on which negotiators made limited progress:

- Euratom-related (nuclear specific) issues;
- ensuring continuity in the availability of goods placed on the market under Union law before withdrawal;
- judicial cooperation in civil and commercial matters;
- police and judicial cooperation in criminal matters;
- ongoing Union judicial procedures;
- ongoing Union administrative proceedings; and
- issues relating to the functioning of the Union institutions, agencies and bodies.

There were also discussions of general governance of the Withdrawal Agreement aspects not related to citizens' rights.

There were no discussions yet on the following issues for which the EU had presented essential principles papers on 21 September 2017:

- intellectual property rights (including geographical indications);
- ongoing public procurement procedures;
- customs-related matters needed for an orderly withdrawal from the Union; and
- use of data and protection of information obtained or processed before the withdrawal date.

The following section addresses each of these issues which have been discussed during the negotiations in detail, based on the Joint Report, referred to above. Where the position of the United Kingdom negotiator is reflected, this is also done on the basis of the Joint Report.

4. The positions of the negotiators of the Commission and of the United Kingdom

a) Citizens' rights

The Guidelines state: *'The right for every EU citizen, and of his or her family members, to live, to work or to study in any EU Member State is a fundamental aspect of the European Union. Along with other rights provided under EU law, it has shaped the lives and choices of millions of people. Agreeing reciprocal guarantees to safeguard the status and rights derived from EU law at the date of withdrawal of EU and UK citizens, and their families, affected by the United Kingdom's withdrawal from the Union will be the first priority for the negotiations. Such guarantees must be effective, enforceable, non-discriminatory and comprehensive, including the right to acquire permanent residence after a continuous period of five years of legal residence. Citizens should be able to exercise their rights through smooth and simple administrative procedures'* (point 8).

Content of citizens' rights

The Commission set out its position in the ‘*Essential principles on citizens’ rights*’ published on 12 June 2017. On 26 June 2017, the United Kingdom published the document ‘*The United Kingdom’s exit from the European Union - Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU*’.

The principles underlying the Union’s position are that the Withdrawal Agreement should protect the rights of Union citizens, United Kingdom nationals and their family members who, at the date of withdrawal, have enjoyed rights relating to free movement under Union law, as well as rights which are in the process of being obtained and the rights the enjoyment of which will intervene at a later date.

The negotiators have reached a fair and equitable common understanding, based on Union law concepts as interpreted by the Court of Justice of the European Union, on the protection of citizens who have built their lives on the basis of rights flowing from United Kingdom membership of the European Union.

The core principles of the common understanding between negotiators, which is built entirely on the negotiating directives given by the Council and reflects the priorities established by the European Parliament in its resolutions of 5 April and 3 October 2017, enable both Union citizens and United Kingdom nationals, as well as their respective family members, for the rest of their lives, to continue to exercise their rights derived from Union law in each other’s territories, where those rights are based on life choices made before the date which the Joint Report calls the ‘specified date’.

This ‘specified date’ should be the date of the United Kingdom’s withdrawal from the Union, without prejudice to discussions, in the second phase of the negotiations, on a possible transitional period and on appropriate adaptations flowing from it as regards the "specified date". In the Commission’s view, in case of any transitional period implying the continued application of the Union’s *acquis* on the fundamental freedoms, it is clear that citizens would need to be fully entitled to their rights to free movement as before the United Kingdom’s withdrawal, and that, therefore, the provisions of the Withdrawal Agreement on the content of citizens’ rights and on governance as regards those rights can only become applicable at the end of such transitional period. In other words, in such case, the ‘specified date’ should, in the Commission’s view, be defined not as the date of the United Kingdom’s withdrawal, but as that of the end of the transitional period.

The common understanding reflected in the Joint Report means that both Union citizens and United Kingdom nationals, as well as their respective family members can **continue to live, work or study** as they currently do under the same conditions as under Union law, benefiting from the full application of the prohibition of any discrimination on grounds of nationality. The only restrictions which apply are those derived from Union law.

Those who have not yet acquired permanent residence rights – if they have not lived in the host State for at least five years – will be fully protected by the Withdrawal Agreement, and be able to acquire permanent residence rights also after the United Kingdom’s withdrawal.

It has also been agreed that the Withdrawal Agreement will **protect the current rights of spouses, registered partners, parents, grandparents, children, grandchildren and a person in a durable relationship**, who do not yet live in the same State as the Union citizen or the United Kingdom national, to join them in the future.

In the Commissions view, the reunification right referred to in the previous paragraph shall also cover **future partners or spouses** of Union citizens and United Kingdom nationals, who are not yet partners or spouses at the 'specified date', as defined above. This important matter should be dealt with in the second phase of the negotiations and will inevitably be linked to the level of ambition of the future partnership between the EU and the United Kingdom.

According to the understanding, all **children will be protected** by the Withdrawal Agreement, wherever they are born before or after the United Kingdom's withdrawal, or whether they are born inside or outside the State where the responsible Union citizen or the United Kingdom national resides. The only exception foreseen concerns children born after the United Kingdom's withdrawal and for which the parent not covered by the Withdrawal Agreement has sole custody under the applicable family law.

Applicable procedures

In addition to the important substantial rights for citizens referred to above, the European Parliament and the Commission both attach particular importance to the existence of smooth and **simple administrative** procedures for citizens to exercise their rights. This aspect of the negotiation was discussed in detail between President Juncker and the European Parliament's Brexit Steering Group on 4 December 2017.⁹ According to the Joint Report, only what is strictly necessary and proportionate to determine whether the criteria for lawful residence have been met, can be required, and any unnecessary administrative burdens will be avoided. This is all the more important as the "special status" that the United Kingdom will set up will be the sole procedure for EU citizens to avail themselves of the rights provided for in the Withdrawal Agreement. The negotiators have agreed that the procedures will be transparent, smooth and streamlined. Costs must not exceed that imposed on nationals for issuing similar documents. Those already holding a permanent residence document will be able to exchange it for the 'special status', free of charge.

The administrative procedures for applications for the 'special status' under the Withdrawal Agreement will be clearly specified therein: the Agreement will contain provisions that reflect the current Union law requirements concerning the evidence citizens shall provide to obtain the 'special status', and it will specify that the host State cannot require anything more than is strictly necessary and proportionate to determine whether the criteria for lawful residence have been met. Errors, involuntary omissions or non-respect of the deadline to submit the application will be dealt with under a proportionate approach. The overall objective is to ensure that the process is as clear, simple and non-bureaucratic as possible for the affected citizens. The Commission will pay particular attention to this aspect of the negotiation when drafting the Withdrawal Agreement and will seek to take into account the European Parliament's concerns.

In this context, it is particularly important to make sure that no citizen will be deprived of his or her rights under the Withdrawal Agreement until a final decision by the competent authorities, or a final judgment, on an application made for the 'special status' has been taken. This has been agreed by the negotiators. The Withdrawal Agreement will ensure that the same safeguards against any restriction of rights as those provided by Union law will apply.

⁹ It was also mentioned in a letter by Guy Verhofstadt, the Chair of the Brexit Steering Group to Michel Barnier on 29 November 2017, see <http://www.europarl.europa.eu/news/en/press-room/20171129IPR89108/brexit-progress-but-not-enough>.

Citizens will maintain their **right to healthcare, pensions and other social security benefits**, and if they are entitled to a cash benefit from one state, they may generally receive it even if they decide to live in another state. When citizens claim a benefit, also after the United Kingdom's withdrawal, previous periods of insurance, work or residence in the Union or in the United Kingdom will be taken into account.

Governance of the Withdrawal Agreement as regards citizens' rights

The Commission published its '*Position paper on Governance*' on 13 July 2017. The United Kingdom has not published any position paper on this topic. The principles underlying the Union's position as regards governance in relation to citizens rights' are that the citizens' rights set out in the Withdrawal Agreement should be granted as directly enforceable rights in both the United Kingdom and in the Union and that the competence of the Court of Justice of the European Union should be preserved with regard to the consistent interpretation and application of the citizens' rights set out in the Withdrawal Agreement. To this end, the common understanding reached by the negotiators provides that the Withdrawal Agreement will contain an explicit provision that citizens will be able to rely directly on the rights enshrined therein and that inconsistent or incompatible rules will be disapplied.

The United Kingdom negotiator has committed that the United Kingdom adopts primary legislation to incorporate fully the citizens' rights Part of the Withdrawal Agreement into its legal order. Once this primary legislation adopted, unless Parliament expressly repeals it in future, the provisions of the citizens' rights Part will prevail over inconsistent or incompatible legislation.

It is essential to ensure a consistent interpretation of citizens' rights enshrined in the Withdrawal Agreement, in the Union as well as in the United Kingdom. To this end, the common understanding reached by the negotiators, which recognises the role of the Court of Justice as the ultimate arbiter of the interpretation of Union law, provides that:

- United Kingdom courts or tribunals shall have due regard to relevant decisions of the Court of Justice of the European Union given after the withdrawal date;
- United Kingdom courts or tribunals should be enabled having had due regard to whether relevant case law exists, to ask the Court of Justice of the European Union, where they consider necessary, questions of interpretation of those rights. This mechanism should be available for United Kingdom courts or tribunals for litigation brought within 8 years from the date of application of the citizens' rights Part;
- exchange of case law between courts, regular judicial dialogue, as well as the possibility for the United Kingdom Government and the Commission to intervene in relevant cases before the Court of Justice of the European Union and before United Kingdom courts and tribunals respectively should be foreseen; and
- the implementation and application of citizens' rights in the Union should be monitored by the Commission acting in conformity with the Union Treaties. In the United Kingdom, this role will be fulfilled by an independent national authority. To ensure reciprocity and mirror the role of the Commission, the Commission considers that the independent national authority should have the power not just to receive to receive complaints by EU citizens resident in the United Kingdom who consider that their rights under the Withdrawal Agreement have been infringed, but also initiate appropriate legal actions before United Kingdom courts on their behalf. This issue will be reflected in the Withdrawal Agreement and the Commission will pay particular

attention to it in the second phase of the negotiations when the details of the role of the authority will be discussed.

It has been agreed that the approach described above does not prejudice future discussions on the general governance of the Withdrawal Agreement or any possible transitional arrangements.

b) The dialogue on Ireland/Northern Ireland

The Guidelines state: *‘The Union has consistently supported the goal of peace and reconciliation enshrined in the Good Friday Agreement in all its parts, and continuing to support and protect the achievements, benefits and commitments of the Peace Process will remain of paramount importance. In view of the unique circumstances on the island of Ireland, flexible and imaginative solutions will be required, including with the aim of avoiding a hard border, while respecting the integrity of the Union legal order. In this context, the Union should also recognise existing bilateral agreements and arrangements between the United Kingdom and Ireland which are compatible with EU law’* (point 11).

The United Kingdom published its position paper *‘Northern Ireland and Ireland’* on 16 August 2017. On 21 September 2017, the Commission published *‘Guiding principles for the Dialogue on Ireland/Northern Ireland’*.

Issues unique to Ireland, as recognised in the Guidelines and the negotiating directives, include:

- the protection of the gains of the peace process and of the Good Friday (Belfast) Agreement in all its parts;
- the maintenance of existing bilateral agreements and arrangements between the United Kingdom and Ireland, including the Common Travel Area; and
- specific issues arising from Ireland’s unique geographic situation, including the aim of avoiding a hard border between Ireland and Northern Ireland, while preserving the integrity of the Single Market.

Agreement between the negotiators was reached at an early stage in the dialogue on Ireland/Northern Ireland on the overarching common objectives which reflect those in the Guidelines and the negotiating directives. Negotiators also agreed that the commitments and principles in relation to Ireland/Northern Ireland will not pre-determine the outcome of wider discussions on the future EU-UK relationship, and must be upheld in all circumstances.

Within the common understanding, the United Kingdom negotiator committed that the United Kingdom would protect the operation and institutions of the Good Friday (Belfast) Agreement, and avoid a hard border, including physical infrastructure or related checks and controls. The United Kingdom also explicitly committed to the United Kingdom respecting Ireland’s ongoing EU membership and all of the corresponding rights and obligations.

The United Kingdom negotiator also provided further the necessary assurance that the United Kingdom would in the future operate the Common Travel Area – a bilateral arrangement between the United Kingdom and Ireland predating common EU membership – in full respect of Ireland’s obligations as an EU Member State, in particular without affecting the right to free movement of EU citizens to and from Ireland.

The negotiators recalled the roles, functions and safeguards of the Northern Ireland Executive, the Northern Ireland Assembly and the North-South Ministerial Council (including its cross-community provisions), as set out in the Good Friday (Belfast) Agreement.

The negotiators carried out an extensive mapping exercise of North-South cooperation, as a central part of the Good Friday (Belfast) Agreement. The exercise showed that this cooperation relies, to a significant extent, on the common EU legal and policy framework. It also identified regulatory divergence between Northern Ireland and Ireland as the biggest single risk to its continuation and future development.

Whilst the United Kingdom remains committed to protecting and supporting continued North-South cooperation across the full range of contexts and frameworks, including after withdrawal, the common understanding provides that the United Kingdom aims to achieve this protection and the avoidance of a hard border through the overall EU-United Kingdom relationship. This intention seems hard to reconcile with the United Kingdom's communicated decision to leave the internal market and the Customs Union.

Should these objectives not be met through the future relationship, the United Kingdom committed to proposing a specific solution to address the unique circumstances of the island of Ireland for agreement with the EU. The EU will need to ensure that any such solution does not affect Ireland's place in the internal market, and consequently the integrity of the internal market.

In the absence of agreed solutions, the United Kingdom committed to maintaining full alignment with those rules of the internal market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy, and the protection of the Good Friday (Belfast) Agreement. In this context, implementation and oversight mechanisms for the specific arrangements to be found will be established to safeguard the integrity of the internal market.

The Joint Report also contains a number of unilateral commitments by the United Kingdom.

As regards other elements of the Good Friday (Belfast) Agreement which are recalled in the EU's guiding principles for the dialogue on Ireland/Northern Ireland, the negotiators have agreed to examine possible arrangements for ensuring that EU citizenship rights of Irish citizens residing in Northern Ireland can continue to be enjoyed fully in the Union. In relation to fundamental rights and safeguards under the Good Friday (Belfast) Agreement, the United Kingdom committed to ensuring that no diminution of rights is caused by its departure from the EU.

These commitments will need to be translated into workable, practical solutions in the second phase of the negotiations. Against this backdrop, it is important that there is agreement between the negotiators to continue work on Ireland/Northern Ireland in a distinct strand of negotiations in the second phase. The Commission considers this issue to be of utmost importance.

Cross-border programmes benefitting North/South cooperation are of great value. In this context, the Commission is of the opinion that the PEACE and INTERREG programmes, to which the United Kingdom is a partner, should continue beyond the current programming period. To this end, the Commission intends to propose the continuation of these programmes, based on their existing management structures, in its proposal for the next Multi-annual Financial Framework, foreseen for May 2018.

c) The financial settlement

The Guidelines state: ‘A single financial settlement - including issues resulting from the [Multi-annual Financial Framework] as well as those related to the European Investment Bank (EIB), the European Development Fund (EDF) and the European Central Bank (ECB) - should ensure that the Union and the United Kingdom both respect the obligations resulting from the whole period of the United Kingdom membership in the Union. The settlement should cover all commitments as well as liabilities, including contingent liabilities’ (point 10).

The Commission published its ‘Essential Principles on Financial Settlement’ on 12 June 2017. The United Kingdom has not published a position paper on the financial settlement.

The United Kingdom agreed to honour its share of financing of all the obligations undertaken while it was a member of the Union, in relation to the EU budget (and in particular the Multi-annual Financial Framework 2014-2020), the European Investment Bank, the European Central Bank, the Facility for Refugees in Turkey, EU Trust Funds, Council agencies and also the European Development Fund.

Against this backdrop, the Commission and the United Kingdom negotiators have agreed on a fair methodology to be followed to calculate the obligations to be honoured by the United Kingdom in the context of its withdrawal.

The principles underlying the agreed methodology are that:

- no Member State should pay more or receive less because of the United Kingdom's withdrawal from the Union;
- the United Kingdom should pay its share of the commitments taken during its membership; and
- the United Kingdom should neither pay more nor earlier than if it had remained a Member State. This implies in particular that the United Kingdom should pay based on the actual outcome of the budget, i.e. adjusted to implementation.

As regards the Union budget component of this financial settlement, the United Kingdom will contribute to, and participate in, the implementation of the EU annual budgets for the years 2019 and 2020 as if it had remained in the Union. It will also contribute its share of the financing of the budgetary commitments outstanding on 31 December 2020 (i.e. *Reste à liquider*) as well as its share of the financing of the Union's liabilities incurred before 31 December 2020 except for liabilities with corresponding assets. In addition, the United Kingdom will remain liable for its share of the EU's contingent liabilities as established at the date of withdrawal¹⁰.

The implementation of the agreed methodology and the schedule of payments will be based on the following principles:

- the United Kingdom will not finance any commitments that do not require funding from Member States, and will receive its share of any financial benefits that would have fallen to it had it remained a Member State;

¹⁰ For contingent liabilities related to legal cases as a result of participation in the budget, programmes and policies, the cut-off date will be 31 December 2020.

- United Kingdom payments relating to United Kingdom participation in EU annual budgets in 2019 and 2020 will be based on a United Kingdom share calculated as if the United Kingdom had remained a Member State. Beyond 2020, the United Kingdom share in relation to the EU budget will be a percentage calculated as the average of United Kingdom contributions to the budget over 2014-2020;
- United Kingdom payments arising from the financial settlement will become due as if the United Kingdom had remained a Member State;
- the financial settlement will be drawn up and paid in euro; and
- the second phase of negotiations will address the practical modalities for implementing the agreed methodology and the schedule of payments.

Following withdrawal from the Union, the United Kingdom will continue to participate in the Union programmes financed by the Multi-annual Financial Framework for 2014-2020 until their closure, except for the programmes in which the United Kingdom did not participate before and those which can give rise to contingent liabilities the United Kingdom will not be liable for after withdrawal. Participation in Union programmes will require the United Kingdom and United Kingdom beneficiaries to respect all relevant Union legal provisions.

As regards the European Investment Bank, the negotiators have agreed on principles ensuring continuation of the operational functioning of the European Investment Bank. The United Kingdom will provide a guarantee for an amount equal to its callable capital on the day of withdrawal for guaranteeing the stock of operations at this time. This guarantee will be maintained for a certain period and then decreased in line with the amortisation of this stock. The United Kingdom will also be reimbursed in instalments its paid-in capital, starting end of 2019 but will provide an additional guarantee replacing the reimbursed paid-in capital. Apart from these reimbursements, the European Investment Bank will not make any other payment, return or remuneration on account of the withdrawal of the UK from the European Investment Bank or on account of the provision by the UK of a guarantee. The United Kingdom will also maintain the European Investment Bank's privileges and immunities under Protocols 5 and 7 annexed to the Treaties throughout the amortisation of the European Investment Bank's stock of operations at the date of withdrawal.

Concerning the European Central Bank, the negotiators have agreed that the paid-in capital of the United Kingdom in the European Central Bank will be reimbursed to the Bank of England after the date of withdrawal.

The United Kingdom will honour the commitments it made before withdrawal for participating in the Facility for Refugees in Turkey and the EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, according to existing arrangements.

Finally, the United Kingdom will honour the total commitments it made before withdrawal in relation to the European Development Fund according to existing arrangements, including for payments related to its share of the outstanding commitments made under previous European Development Funds.

The Commission welcomes the United Kingdom Government's offer to discuss with Union Agencies located in London how the United Kingdom might facilitate their relocation, in particular as regards reducing the withdrawal costs.

Other separation issues

The Guidelines state: *‘Also, the United Kingdom leaving the Union will impact EU businesses trading with and operating in the United Kingdom and UK businesses trading with and operating in the Union. [...] Negotiations should seek to prevent a legal vacuum once the Treaties cease to apply to the United Kingdom and, to the extent possible, address uncertainties’* (point 9); *‘The [W]ithdrawal [A]greement would also need to address potential issues arising from the withdrawal in other areas of cooperation, including judicial cooperation, law enforcement and security’* (point 14). The Guidelines also state: *‘Arrangements ensuring legal certainty and equal treatment should be found for all court procedures pending before the Court of Justice of the European Union upon the date of withdrawal that involve the United Kingdom or natural or legal persons in the United Kingdom. The Court of Justice of the European Union should remain competent to adjudicate in these procedures. Similarly, arrangements should be found for administrative procedures pending before the European Commission and Union agencies upon the date of the withdrawal that involve the United Kingdom or natural or legal persons in the United Kingdom. In addition, arrangements should be foreseen for the possibility of administrative or court proceedings to be initiated post-exit for facts that have occurred before the withdrawal date’* (point 16).

The Union communicated to the United Kingdom ten Essential Principles papers setting out its negotiating position on other separation issues, namely with regard to *Euratom-related issues (nuclear materials and safeguard equipment); ongoing Union judicial and administrative procedures; issues relating to the functioning of the Union institutions, agencies and bodies; goods placed on the market under union law before the withdrawal date; ongoing police and judicial cooperation in criminal matters; ongoing judicial cooperation in civil and commercial matters; intellectual property rights (including geographical indications); ongoing public procurement procedures, and customs-related matters needed for an orderly withdrawal from the Union.*

Agreement has been found on a number of issues but there remain areas where further discussion is required.

On **Euratom-related (nuclear specific) issues**, the Commission and United Kingdom negotiators have agreed principles for addressing the key separation issues relating to the United Kingdom’s withdrawal from Euratom. This includes:

- agreement that the United Kingdom will be responsible for international nuclear safeguards in the United Kingdom and is committed to a future regime that provides coverage and effectiveness equivalent to existing Euratom arrangements;
- agreed principles on ownership of special fissile material (save for material held in the United Kingdom by EU27 entities); and
- agreed principles on responsibility for spent fuel and radioactive waste.

Regarding Special Fissile Material held in the United Kingdom by EU27 undertakings, the United Kingdom has not yet accepted that Euratom rights should continue (e.g. right to approve future sale or transfer of these materials). Both sides agree that 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. Agreement appears to be in sight but must be finalised in regard to the transfer to the United Kingdom of the equipment currently used by Euratom for the purpose of implementing safeguards. Finally, disagreement persists regarding the validity of the approvals of exports from the Union to the United Kingdom after withdrawal.

On ensuring continuity in the availability of goods placed on the market under Union law before withdrawal it has been agreed between the negotiators that:

- the goods placed on the market under Union law before withdrawal may freely circulate on the markets of the United Kingdom and the Union;
- there should be no need for product modifications or re-labelling;
- goods may be put into service where provided in Union law; and
- goods concerned should be subject to continued oversight.

Substantial work is still necessary to agree on the key notion of ‘placing on the market’. More fundamental disagreement persists on the EU’s intention to apply EU rules on importation to all animal-derived products as from the withdrawal date, irrespective of when they were placed on the market, as well as on the competence for performing EU compliance activities under Union law after withdrawal. On this last point, the Commission negotiator insists on any compliance activity post-withdrawal to be performed by competent authorities or bodies under current EU law, whilst the United Kingdom negotiator wants the United Kingdom to retain temporary (but potentially open ended) competence for such activities.

On cooperation in civil and commercial matters there is general consensus between the negotiators that:

- Union rules on conflict of laws should continue to apply to contracts before withdrawal date and non-contractual obligations where an event causing damage occurred before the withdrawal date;
- EU law on jurisdiction should continue to apply to legal proceedings instituted before the withdrawal date;
- as regards recognition and enforcement of judgments, relevant EU law should continue to apply with regard to judgments handed down before withdrawal; and
- relevant pending judicial cooperation should be finalised.

Work is still needed on whether EU law should continue to govern the recognition and enforcement of judgments handed down after withdrawal, but in proceedings that were ongoing on the withdrawal date. Finally, there is disagreement as to whether a choice of court clause concluded before withdrawal should trigger the application of EU law on recognition and enforcement of judgments in litigation after withdrawal.

On police and judicial cooperation in criminal matters there is broad agreement that:

- all structured and formalised cooperation procedures ongoing on the withdrawal date that have passed a certain threshold (to be defined) should be completed under Union law.

Additional work needs to be done on the list of the instruments concerned, and in order to agree on the need to identify an ‘end point’ ascertaining completion of the relevant procedures. Further discussions are also needed in order to clarify the agreement that EU instruments providing for procedural rights would continue to apply, throughout such procedures after withdrawal.

On ongoing Union judicial procedures, it has been agreed between the negotiators that:

- the Court of Justice of the European Union should remain competent for United Kingdom judicial procedures with the United Kingdom as applicant or defendant and for preliminary references originating in the United Kingdom, registered at the Court of Justice of the European Union on the date of withdrawal; and
- those procedures should continue through to a binding judgment.

There is however persisting disagreement between the negotiators on several issues including the question of the continued competence of the Court of Justice of the European Union in relation to facts having arisen before the United Kingdom's withdrawal, the enforceability of the decisions of the Court of Justice of the European Union after withdrawal and the possibility for the United Kingdom to intervene before the Court of Justice of the European Union in the future.

On ongoing Union administrative proceedings there is at present no position of the United Kingdom negotiator on the Union position that all pending administrative compliance procedures should be completed with a binding force and possibly result in binding subsequent judicial procedures.

On issues relating to the functioning of the Union institutions, agencies and bodies, the negotiators have agreed that:

- an arrangement which closely mirrors Union privileges and immunities should remain applicable to activities that took place before withdrawal and as regards new activities in the United Kingdom foreseen in the Withdrawal Agreement;
- both sides should continue to ensure compliance with obligations of professional secrecy; and
- classified information and other documents obtained by both sides whilst the United Kingdom was a Member State should retain the same level of protection as before withdrawal.

There remains disagreement on the role of the Court of Justice of the European Union with regard to the lifting of EU immunities. While the United Kingdom maintains that this question has to be examined in the context of the broader discussion on the role of the Court of Justice of the European Union, the Union position is that the involvement of the Court of Justice of the European Union in this case is different from any role for the Court of Justice of the European Union as a possible dispute settlement body for the Withdrawal Agreement.

With regard to the **general governance of the Withdrawal Agreement**, the Commission is of the view that more work is needed.

The Commission's '*Essential Principles paper on Governance*' set out the Union's proposal for a complete and effective governance mechanism. While some discussions have taken place on dispute resolution and the monitoring of the functioning of the Withdrawal Agreement, including the possibility of setting up a joint committee, significant divergences remain. More specifically, the United Kingdom has made clear its opposition to according a central role to the Court of Justice of the European Union, while the Commission has stressed the need to protect the autonomy of the Union and of its legal order, including the role of the Court of Justice, as underlined in the European Council guidelines of 29 April 2017. Further discussions are needed on the institutional arrangements to jointly manage and monitor the functioning of the Withdrawal Agreement (for example via a joint committee), on the crucial

question of how compliance with the Withdrawal Agreement by both sides can be effectively enforced, and on how disputes that may emerge in this regard should be settled.

5. Conclusion

On the basis of the foregoing and the Joint Report of the negotiators, as well as the confirmation by Prime Minister May to President Juncker during their meeting on 8 December 2017 of the United Kingdom Government's endorsement of the Joint Report, the Commission recommends to the European Council (Article 50) to conclude that sufficient progress has been made in the first phase of the negotiations on the orderly withdrawal of the United Kingdom from the European Union, allowing the negotiations to proceed to their second phase.

Should the European Council consider that sufficient progress has been made in the negotiations, the **Withdrawal Agreement** based on Article 50 of the Treaty on European Union should be drafted on the basis of the Joint Report and the outcome of the negotiations on other separation issues.

Negotiations should be complete by autumn 2018 to allow good time for the Withdrawal Agreement to be concluded by the Council after obtaining consent of the European Parliament, and to be approved by the United Kingdom in accordance with its own procedures before 29 March 2019.

The Guidelines of 29 April 2017 state that the negotiations may seek to determine **transitional arrangements** which should be in the interest of the Union. Such transitional arrangements would be based on Article 50 of the Treaty on European Union and would by their very nature be for a limited period of time. During such a potential transitional period, the entire *acquis* – the full corpus of EU law – would continue to apply in the United Kingdom. Any such transitional arrangements would require existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures to apply. Should the European Council (Article 50) recognise that sufficient progress has been made, the Commission stands ready to begin work immediately on such transitional arrangements, which could also provide bridges to the future relationship.

If the European Council (Article 50) so decides, the Commission also stands ready to start exploratory discussions on the **future relationship** between the European Union and the United Kingdom.

8 December 2017

TF50 (2017) 19 – Commission to EU 27

Subject: Joint report from the **negotiators of the European Union and the United Kingdom Government** on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom's orderly withdrawal from the European Union.

Origin: Presented jointly by the **negotiators of the European Union and the United Kingdom Government**.

Remarks: This report is put forward with a view to the meeting of the European Council (Article 50) of 14-15 December 2017. Under the caveat that nothing is agreed until everything is agreed, the joint commitments set out in this joint report shall be reflected in the Withdrawal Agreement in full detail. This does not prejudge any adaptations that might be appropriate in case transitional arrangements were to be agreed in the second phase of the negotiations, and is without prejudice to discussions on the framework of the future relationship.

Published on the TF50 website on 8 December 2017

JOINT REPORT FROM THE NEGOTIATORS OF THE EUROPEAN UNION AND THE UNITED KINGDOM GOVERNMENT

ON PROGRESS DURING PHASE 1 OF NEGOTIATIONS UNDER ARTICLE 50 TEU ON THE UNITED KINGDOM'S ORDERLY WITHDRAWAL FROM THE EUROPEAN UNION

1. This report, presented jointly by the negotiators of the European Union (Union) and the United Kingdom of Great Britain and Northern Ireland (UK), records the progress made in the first phase of negotiations under Article 50 of the Treaty on European Union (TEU) on the UK's orderly withdrawal from the Union.
2. Both Parties have reached agreement in principle across the following three areas under consideration in the first phase of negotiations, on which further detail is set out in this report:
 - a. protecting the rights of Union citizens in the UK and UK citizens in the Union;
 - b. the framework for addressing the unique circumstances in Northern Ireland; and
 - c. the financial settlement.
3. Progress was also made in achieving agreement on aspects of other separation issues.
4. The positions detailed in this report form a single and coherent package. Agreement in principle has been reached on the package as a whole, as opposed to individual elements.
5. Under the caveat that nothing is agreed until everything is agreed, the joint commitments set out below in this joint report shall be reflected in the Withdrawal Agreement in full detail. This does not prejudice any adaptations that might be appropriate in case transitional arrangements were to be agreed in the second phase of the negotiations, and is without prejudice to discussions on the framework of the future relationship.

Citizens' rights

6. The overall objective of the Withdrawal Agreement with respect to citizens' rights is to provide reciprocal protection for **Union and UK citizens, to enable the effective exercise of rights derived from Union law and based on past life choices**, where those citizens have exercised free movement rights by the specified date.
7. **To date, both Parties have reached a common understanding on the following.**¹
8. The specified date should be the time of the UK's withdrawal.

¹ This common understanding is based on a more detailed consensus between the Parties, as expressed in the latest joint technical note that summarises the UK and EU positions.

9. The use of Union law concepts in the citizens' rights Part of the Withdrawal Agreement is to be interpreted in line with the case law of the Court of Justice of the European Union (CJEU) by the specified date;
10. Union citizens who in accordance with Union law legally reside in the UK, and UK nationals who in accordance with Union law legally reside in an EU27 Member State by the specified date, as well as their family members as defined by Directive 2004/38/EC who are legally resident in the host State by the specified date, fall within the scope of the Withdrawal Agreement (for personal scope related to frontier workers, see paragraph 15, and for social security, see paragraph 28);
11. Within the scope of application of this Part of the Withdrawal Agreement and without prejudice to any special provisions therein, any discrimination on grounds of nationality will be prohibited in the host State and the State of work in respect of Union citizens and UK nationals, and their respective family members covered by the Withdrawal Agreement;
12. Irrespective of their nationality, the following categories of family members who were not residing in the host State on the specified date will be entitled to join a Union citizen or UK national right holder after the specified date for the life time of the right holder, on the same conditions as under current Union law:
 - a. all family members as referred to in Article 2 of Directive 2004/38/EC, provided they were related to the right holder on the specified date and they continue to be so related at the point they wish to join the right holder; and
 - b. children born, or legally adopted, after the specified date, whether inside or outside the host State, where:
 - i. the child is born to, or legally adopted by, parents who are both protected by the Withdrawal Agreement or where one parent is protected by the Withdrawal Agreement and the other is a national of the host State; or
 - ii. the child is born to, or legally adopted by, a parent who is protected by the Withdrawal Agreement and who has sole or joint custody of the child under the applicable family law of an EU27 Member State or the UK and without prejudging the normal operation of that law, in particular as regards the best interests of the child;
13. The UK and EU27 Member States will facilitate entry and residence of partners in a durable relationship (Article 3(2)(b) of Directive 2004/38/EC) after the UK's withdrawal in accordance with national legislation if the partners did not reside in the host state on the specified date, the relationship existed and was durable on the specified date and continues to exist at the point they wish to join the right holder;
14. The right to be joined by family members not covered by paragraphs 12 and 13 after the specified date will be subject to national law;
15. Those who on the specified date are working as frontier workers, as defined under Union law, fall within the scope of the Withdrawal Agreement;

16. The UK and EU27 Member States can require persons concerned to apply to obtain a status conferring the rights of residence as provided for by the Withdrawal Agreement and be issued with a residence document attesting to the existence of that right. Where the host State requires persons concerned to apply for a status, no status is obtained if no successful application is made, subject to paragraph 17e. The UK and EU27 Member States can also continue with the present system under which entitlement of rights under the Withdrawal Agreement may be attested by any other means of proof than a residence document;
17. Administrative procedures for applications for status will be transparent, smooth and streamlined,² in particular:
- a. The Withdrawal Agreement will specify that the host State cannot require anything more than is strictly necessary and proportionate to determine whether the criteria have been met. The Withdrawal Agreement will contain provisions that follow a similar approach to the provisions on evidential requirements in Directive 2004/38;
 - b. The host State will avoid any unnecessary administrative burdens;
 - c. Application forms will be short, simple, user friendly and adjusted to the context of the Withdrawal Agreement. The host State will work with the applicants to help them prove their eligibility under the Withdrawal Agreement and to avoid any errors or omissions that may impact on the application decision. Competent authorities will give applicants the opportunity to furnish supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling competent authorities to exercise discretion in favour of the applicant where appropriate;
 - d. A proportionate approach will be taken to those who miss the deadline for application where there is a good reason. Applications made by families at the same time will be considered together; and
 - e. Where an application is required to obtain status, adequate time of at least two years will be allowed to persons within the scope of the Withdrawal Agreement to submit their applications. During this time period, they will enjoy the rights conferred by the Withdrawal Agreement. Residence documents under the Withdrawal Agreement will be issued free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents;
18. Pending a final decision by the competent authorities on any application made for status under the Withdrawal Agreement, as well as a final judgment handed down in case of judicial redress sought against any rejection of such application, the citizens' rights Part of the Withdrawal Agreement will apply to the applicant. The host State may remove applicants who submitted fraudulent or abusive applications from the territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35, even before a final judgment has been handed down in case of judicial redress sought against any rejection of such application;

² For information: the UK has published a technical note – see <https://www.gov.uk/government/publications/citizens-rights-administrative-procedures-in-the-uk> - setting out proposed procedures under its national law, which it will continue to develop over the coming months.

19. Decisions taken under the procedure for obtaining status under the Withdrawal Agreement will be made in accordance with the objective criteria established in the Withdrawal Agreement (i.e. no discretion, unless in favour of the applicant). There will be safeguards in the Withdrawal Agreement for a fair procedure, and decisions will be subject to the redress mechanisms and judicial controls provided in Directive 2004/38/EC;
20. The conditions for acquiring the right of residence under the Withdrawal Agreement are those set out in Articles 6 and 7 of Directive 2004/38/EC, including the right to change status;
21. The conditions for acquiring the right of permanent residence under the Withdrawal Agreement are those set out in Articles 16, 17 and 18 of Directive 2004/38/EC, with periods of lawful residence prior to the specified date included in the calculation of the conditions set out in Articles 16 and 17 of Directive 2004/38/EC;
22. The UK and EU27 Member States can apply more favourable national provisions in accordance with Article 37 of Directive 2004/38/EC;
23. In order to obtain status under the Withdrawal Agreement by application, those already holding a permanent residence document issued under Union law³ at the specified date will have that document converted into the new document free of charge, subject only to verification of identity, a criminality and security check and confirmation of ongoing residence;
24. Systematic criminality and security checks can – in the specific context of acquiring status under the Withdrawal Agreement – be carried out on all applicants for status under the Agreement and applicants can be asked to declare criminality. Any consequences arising from such checks and declarations shall be subject to the procedures in paragraphs 17 to 19;
25. Persons who acquired the permanent residence rights in the host State under the Withdrawal Agreement can be absent from its territory for a period not exceeding five consecutive years without losing their residence right under the Withdrawal Agreement;
26. Any restrictions on grounds of public policy or security related to conduct prior to the specified date of persons covered by the Withdrawal Agreement will be in accordance with Chapter VI of Directive 2004/38/EC;
27. Any restrictions on grounds of public policy or security related to conduct after the specified date will be in accordance with national law;
28. Social security coordination rules set out in Regulations (EC) No 883/2004 and (EC) No 987/2009 will apply. Social security coordination rules will cover Union citizens who on the specified date are or have been subject to UK legislation and UK nationals who are or have been subject to the legislation of an EU27 Member State, and EU27 and UK nationals within the scope of the Withdrawal Agreement by virtue of

³ This includes beneficiaries of the Withdrawal Agreement who hold valid domestic immigration documents conferring a permanent right to reside in the host state (such as UK Indefinite Leave to Remain (ILR) status).

residence. Those rules will also apply, for the purposes of aggregation of periods of social security insurance, to Union and UK citizens having worked or resided in the UK or in an EU27 Member State in the past;

29. Rules for healthcare, including the European Health Insurance Card (EHIC) scheme, will follow Regulation (EC) No 883/2004. Persons whose competent state is the UK and are in the EU27 on the specified date (and vice versa) – whether on a temporary stay or resident – continue to be eligible for healthcare reimbursement, including under the EHIC scheme, as long as that stay, residence or treatment continues;
30. For rights and obligations set out in Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems, a mechanism will be established to decide jointly on the incorporation of future amendments to those Regulations in the Withdrawal Agreement;
31. Equal treatment will apply within the limits of Articles 18, 45 and 49 TFEU, Article 24 of Directive 2004/38/EC and Regulation (EU) No 492/2011 including rights of workers, self-employed, students and economically inactive citizens with respect to social security, social assistance, health care, employment, self-employment and setting up and managing an undertaking, education (including higher education) and training, social and tax advantages;
32. Decisions on recognition of qualifications granted to persons covered by the scope of the Withdrawal Agreement before the specified date in the host State and, for frontier workers, the State of work (either the UK or an EU27 Member State) under Title III of Directive 2005/36/EC (recognition of professional qualifications where the person concerned was exercising the freedom of establishment), Article 10 of Directive 98/5/EC (lawyers who gained admission to the host State profession and are allowed to practise under the host State title alongside their home State title) and Article 14 of Directive 2006/43/EC (approved statutory auditors) will be grandfathered. Recognition procedures under these Directives that are ongoing on the specified date, in respect of the persons covered, will be completed under Union law and will be grandfathered.

Legal effects of the citizens' rights Part

33. It is of paramount importance to both Parties to give as much certainty as possible to UK citizens living in the EU and EU citizens living in the UK about their future rights. The Parties have therefore reached agreement on the following specific set of arrangements to implement and enforce the citizens' rights Part of the agreement.
34. Both Parties agree that the Withdrawal Agreement should provide for the legal effects of the citizens' rights Part both in the UK and in the Union. UK domestic legislation should also be enacted to this effect.
35. The provision in the Agreement should enable citizens to rely directly on their rights as set out in the citizens' rights Part of the Agreement and should specify that inconsistent or incompatible rules and provisions will be disapplied.

36. The UK Government will bring forward a Bill, the Withdrawal Agreement & Implementation Bill, specifically to implement the Agreement. This Bill will make express reference to the Agreement and will fully incorporate the citizens' rights Part into UK law. Once this Bill has been adopted, the provisions of the citizens' rights Part will have effect in primary legislation and will prevail over inconsistent or incompatible legislation, unless Parliament expressly repeals this Act in future. The Withdrawal Agreement will be binding upon the institutions of the Union and on its Member States from its entry into force pursuant to Article 216(2) TFEU.

Consistent interpretation of the citizens' rights Part

37. The Agreement establishes rights for both UK citizens living in the EU and EU citizens in the UK. To protect those rights and give citizens legal certainty, a consistent interpretation and application of the citizens' rights Part is in the interest of both Parties to the Agreement and therefore appropriate mechanisms should be established to ensure this.

38. This Part of the Agreement establishes rights for citizens following on from those established in Union law during the UK's membership of the European Union; the CJEU is the ultimate arbiter of the interpretation of Union law. In the context of the application or interpretation of those rights, UK courts shall therefore have due regard to relevant decisions of the CJEU after the specified date⁴. The Agreement should also establish a mechanism enabling UK courts or tribunals to decide, having had due regard to whether relevant case-law exists, to ask the CJEU questions of interpretation of those rights where they consider that a CJEU ruling on the question is necessary for the UK court or tribunal to be able to give judgment in a case before it. This mechanism should be available for UK courts or tribunals for litigation brought within 8 years from the date of application of the citizens' rights Part.

39. Consistent interpretation of the citizens' rights Part should further be supported and facilitated by an exchange of case law between the courts and regular judicial dialogue. In the same vein, it is envisaged to give the UK Government and the European Commission the right to intervene in relevant cases before the CJEU and before UK courts and tribunals respectively.

40. The implementation and application of the citizens' rights Part will be monitored in the Union by the Commission acting in conformity with the Union Treaties. In the UK, this role will be fulfilled by an independent national authority; its scope and functions, including its role in acting on citizens' complaints, will be discussed between the parties in the next phase of the negotiations and reflected in the Withdrawal Agreement. There should be regular exchange of information between the UK Government and the Commission.

41. The approach agreed in the context of the citizens' rights Part of the Withdrawal Agreement reflects both Parties' desire to give those citizens certainty. It in no way prejudices discussions on other elements of the Withdrawal Agreement, including

⁴ According to paragraph 9 of this report, the use of Union law concepts in the citizens' rights Part of the Withdrawal Agreement is to be interpreted in line with the case law of the CJEU by the specified date.

governance, other separation issues or any possible transitional arrangements, nor discussions on the future relationship.

Ireland and Northern Ireland

42. Both Parties affirm that the achievements, benefits and commitments of the peace process will remain of paramount importance to peace, stability and reconciliation. They agree that the Good Friday or Belfast Agreement reached on 10 April 1998 by the United Kingdom Government, the Irish Government and the other participants in the multi-party negotiations (the '1998 Agreement') must be protected in all its parts, and that this extends to the practical application of the 1998 Agreement on the island of Ireland and to the totality of the relationships set out in the Agreement.
43. The United Kingdom's withdrawal from the European Union presents a significant and unique challenge in relation to the island of Ireland. The United Kingdom recalls its commitment to protecting the operation of the 1998 Agreement, including its subsequent implementation agreements and arrangements, and to the effective operation of each of the institutions and bodies established under them. The United Kingdom also recalls its commitment to the avoidance of a hard border, including any physical infrastructure or related checks and controls.
44. Both Parties recognise the need to respect the provisions of the 1998 Agreement regarding the constitutional status of Northern Ireland and the principle of consent. The commitments set out in this joint report are and must remain fully consistent with these provisions. The United Kingdom continues to respect and support fully Northern Ireland's position as an integral part of the United Kingdom, consistent with the principle of consent.
45. The United Kingdom respects Ireland's ongoing membership of the European Union and all of the corresponding rights and obligations that entails, in particular Ireland's place in the Internal Market and the Customs Union. The United Kingdom also recalls its commitment to preserving the integrity of its internal market and Northern Ireland's place within it, as the United Kingdom leaves the European Union's Internal Market and Customs Union.
46. The commitments and principles outlined in this joint report will not pre-determine the outcome of wider discussions on the future relationship between the European Union and the United Kingdom and are, as necessary, specific to the unique circumstances on the island of Ireland. They are made and must be upheld in all circumstances, irrespective of the nature of any future agreement between the European Union and United Kingdom.
47. Cooperation between Ireland and Northern Ireland is a central part of the 1998 Agreement and is essential for achieving reconciliation and the normalisation of relationships on the island of Ireland. In this regard, both Parties recall the roles, functions and safeguards of the Northern Ireland Executive, the Northern Ireland Assembly, and the North-South Ministerial Council (including its cross-community provisions) as set out in the 1998 Agreement. The two Parties have carried out a

mapping exercise, which shows that North-South cooperation relies to a significant extent on a common European Union legal and policy framework. Therefore, the United Kingdom's departure from the European Union gives rise to substantial challenges to the maintenance and development of North-South cooperation.

48. The United Kingdom remains committed to protecting and supporting continued North-South and East-West cooperation across the full range of political, economic, security, societal and agricultural contexts and frameworks of cooperation, including the continued operation of the North-South implementation bodies.
49. The United Kingdom remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border. Any future arrangements must be compatible with these overarching requirements. The United Kingdom's intention is to achieve these objectives through the overall EU-UK relationship. Should this not be possible, the United Kingdom will propose specific solutions to address the unique circumstances of the island of Ireland. In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement.
50. In the absence of agreed solutions, as set out in the previous paragraph, the United Kingdom will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland. In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland's businesses to the whole of the United Kingdom internal market.
51. Both Parties will establish mechanisms to ensure the implementation and oversight of any specific arrangement to safeguard the integrity of the EU Internal Market and the Customs Union.
52. Both Parties acknowledge that the 1998 Agreement recognises the birth right of all the people of Northern Ireland to choose to be Irish or British or both and be accepted as such. The people of Northern Ireland who are Irish citizens will continue to enjoy rights as EU citizens, including where they reside in Northern Ireland. Both Parties therefore agree that the Withdrawal Agreement should respect and be without prejudice to the rights, opportunities and identity that come with European Union citizenship for such people and, in the next phase of negotiations, will examine arrangements required to give effect to the ongoing exercise of, and access to, their EU rights, opportunities and benefits.
53. The 1998 Agreement also includes important provisions on Rights, Safeguards and Equality of Opportunity for which EU law and practice has provided a supporting framework in Northern Ireland and across the island of Ireland. The United Kingdom commits to ensuring that no diminution of rights is caused by its departure from the European Union, including in the area of protection against forms of discrimination enshrined in EU law. The United Kingdom commits to facilitating the related work of the institutions and bodies, established by the 1998 Agreement, in upholding human rights and equality standards.

54. Both Parties recognise that the United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (Common Travel Area), while fully respecting the rights of natural persons conferred by Union law. The United Kingdom confirms and accepts that the Common Travel Area and associated rights and privileges can continue to operate without affecting Ireland's obligations under Union law, in particular with respect to free movement for EU citizens.
55. Both Parties will honour their commitments to the PEACE and INTERREG funding programmes under the current multi-annual financial framework. Possibilities for future support will be examined favourably.
56. Given the specific nature of issues related to Ireland and Northern Ireland, and on the basis of the principles and commitments set out above, both Parties agree that in the next phase work will continue in a distinct strand of the negotiations on the detailed arrangements required to give them effect. Such work will also address issues arising from Ireland's unique geographic situation, including the transit of goods (to and from Ireland via the United Kingdom), in line with the approach established by the European Council Guidelines of 29 April 2017.

Financial settlement

57. Both Parties have agreed a methodology for the financial settlement.
58. This methodology consists of:
- a. a list of components;
 - b. a set of principles for calculating the value of the financial settlement and payment modalities;
 - c. arrangements for continued participation of the UK in the programmes of the current Multiannual Financial Framework (MFF) until their closure; and
 - d. financial and related arrangements for the European Investment Bank, the European Central Bank, European Union trust funds, the Facility for Refugees in Turkey, Council agencies and also the European Development Fund.

Components of the settlement

UK participation in Union annual budgets to 2020

59. The UK will contribute to, and participate in, the implementation of the Union annual budgets for the years 2019 and 2020 as if it had remained in the Union (including revenue adjustments⁵), on the basis of the applicable Union legal provisions including the Own Resources legislation. By derogation, any amendments to the Multiannual Financial Framework Regulation or Own Resources Decision adopted after the date of withdrawal, having an impact on the UK's financial obligations, will not apply to the UK.

⁵ This will include the UK's share of net financial corrections and fines imposed until 31 December 2020, once definitively settled.

60. The normal process of annual revenue adjustment in respect of the year 2020 will be completed in accordance with the Own Resources Decision and the other relevant Union provisions. Amounts to be returned to, or returned by, the UK will be calculated as if the UK had remained in the Union. The UK will also participate in the surplus exercise with respect to 2020. In the second phase of negotiations, some simplification of the revenue adjustment procedure including time limitation could be agreed between the UK and the Union.

Outstanding commitments at the end of 2020 – Reste à liquider (RAL)

61. The UK will contribute its share of the financing of the budgetary commitments outstanding at 31 December 2020 (RAL).

Liabilities, contingent liabilities and corresponding assets

62. The UK will contribute its share of the financing of the Union's liabilities incurred before 31 December 2020 except for liabilities with corresponding assets⁶ and any assets and liabilities which are related to the operation of the budget and the Own Resources Decision⁷.

63. The UK will remain liable for its share of the Union's contingent liabilities as established at the date of withdrawal. For those related to guarantees given by the Union budget to support financial operations (e.g. back-to-back loans for financial assistance, financial operations managed by the EIB such as EFSI or the external lending mandate, financial operations managed by other financial institutions, Union budgetary financial instruments), the UK liability will be limited to decisions on each financial operation adopted prior to the date of withdrawal. By derogation, for contingent liabilities related to legal cases as a result of participation in the budget, programmes and policies, the cut-off date will be 31 December 2020⁸. In the event of triggering of the Union contingent liabilities for which the UK is liable, the UK will receive its share of any subsequent recoveries.

64. As the provisioning needs for the financial operations associated with these contingent liabilities decline, the UK share of the paid-in guarantees constituted from the budget until the end of 2020 will be returned to the UK, provided that it has not been used for covering losses on the underlying financial operations, as well as any gains from these financial operations to be returned to all Member States, even if such funds would be recommitted.

65. Similarly, as the financial operations supported by the net asset of the European Coal and Steel Community in liquidation and of the European Investment Fund decided before the withdrawal date, mature, the UK will receive its share.

⁶ In this context, the following will not be included in the financial settlement: Union financial assistance loan assets and the associated balance sheet liabilities, and assets corresponding to property, plant and equipment and provisions related to the Joint Research Centre nuclear sites dismantlement, and all lease-related obligations and all provisions other than in respect of fines, legal cases and financial guarantee liabilities, intangible assets and inventories, any assets and liabilities relating to the management of foreign currency risk, accrued and deferred income.

⁷ Outstanding pre-financing advances, receivables, cash, payables, and accrued charges including those related to EAGF or already included in the budgetary RAL will not be included for the calculation of liabilities.

⁸ The triggering event will be decided in the second phase.

66. Union assets relating to Union space programmes (EGNOS, Galileo & Copernicus) are not part of the financial settlement. The UK's past contribution to the financing of space assets could be discussed in the context of possible future access to the services offered.

Principles for calculating the value of the financial settlement

67. The implementation of the agreed methodology and the schedule of payments will be based on the following principles:

- a. The UK will not finance any commitments that do not require funding from Member States, and will receive a share of any financial benefits that would have fallen to it had it remained a Member State. In particular, the value of the RAL, as audited by the European Court of Auditors, will be adjusted to take into account the actual implementation of the Union's commitments, taking into account decommitments and assigned revenue. The UK opt-outs leading to non-participation in Union programmes existing at the date of withdrawal will continue to apply in respect of the financial settlement.
- b. Except for the UK payments relating to UK participation to Union annual budgets to 2020 as set out in paragraphs 59 and 60, the UK share in relation with the Union budget will be a percentage calculated as the ratio between the own resources made available by the UK from the year 2014 to 2020 and the own resources made available by all Member States, including the UK, during the same period.
- c. Payments arising from the financial settlement will become due as if the UK had remained a Member State. In particular, the UK will not be required to incur expenditures earlier than would be the case had it remained a Member State unless agreed by both sides.⁹ It may be appropriate for the UK and the Union to agree on a simplified procedure for settling some elements of the payment schedule in the second phase of negotiations. Such a procedure should be based on an agreed forecast and, where appropriate, provision for subsequent review and correction.

68. The financial settlement will be drawn up and paid in euro.

69. Data for the calculation of UK obligations will be drawn up from publicly available sources where possible, and audited by the European Court of Auditors. Additional information necessary for the calculation of the UK's share of Union obligations will be transmitted to the UK. The Union will provide the UK with the management and accounting information necessary to verify the components of the financial settlement in a timely manner.

70. The second phase of the negotiations will address the practical modalities for implementing the agreed methodology and the schedule of payments.

⁹ The UK's share of the liability related to pension and other post-employment benefits for Union staff and staff from the European Defence Agency, the European Union Institute for Security Studies and the European Union Satellite Centre as established on 31 December 2020 will be paid when these amounts fall due, unless an earlier schedule is agreed. The accounts record this liability in accordance with standard international accounting practice. This liability has a long time-span and the forecast of its net present value (NPV) depends on a number of assumptions and is sensitive to, in particular, the real discount rate, which has a historically low value at the time of drafting of this Joint Report.

UK participation in programmes of the MFF 2014-2020

71. Following withdrawal from the Union, the UK will continue to participate in the Union programmes financed by the MFF 2014-2020¹⁰ until their closure (excluding participation in financial operations which give rise to a contingent liability for which the UK is not liable as from the date of withdrawal). Entities located in the UK will be entitled to participate in such programmes. Participation in Union programmes will require the UK and UK beneficiaries to respect all relevant Union legal provisions including co-financing. Accordingly, the eligibility to apply to participate in Union programmes and Union funding for UK participants and projects will be unaffected by the UK's withdrawal from the Union for the entire lifetime of such projects.
72. In the second phase of negotiations it could be agreed that some rules related to Union programmes that would be considered as not relevant in relation to a departing Member State would not apply. As part of the second phase of negotiations, the Union and the UK could also decide to agree to simplified procedures so as to avoid unnecessary administrative burdens extending well beyond the end of the current multiannual financial framework, provided that they respect the sound financial management of the Union budget and do not result in discrimination in favour of the UK or UK beneficiaries. The UK and the Union could also agree on administrative procedures to facilitate the management of specific programmes.
73. The UK states that it may wish to participate in some Union budgetary programmes of the new MFF post-2020 as a non-Member State.

Other components of the settlement – Union bodies and funds related to Union policies

European Investment Bank (EIB)

74. The financial settlement should not disrupt the operational functioning of the EIB as a result of the UK withdrawal in relation to the stock of operations (i.e. loans and other financial instruments) at that point.
75. In this context, the UK will provide a guarantee for an amount equal to its callable capital on the day of withdrawal. This guarantee will be decreased in line with the amortisation of the stock of EIB operations at the date of withdrawal, starting on the date on which the outstanding stock reaches an amount equal to the total subscribed capital on the date of withdrawal and ending on the date it equals the total paid-in capital on the date of withdrawal, both as defined in the EIB statute.
76. The UK share of the paid-in capital will be reimbursed in twelve annual instalments starting at the end of 2019¹¹. The UK remains liable for the reimbursed amount of paid-in capital until the outstanding stock of EIB operations equals the total paid-in capital on the date of withdrawal, at which point the liability will start to be amortised in line with the remaining non-amortised operations.

¹⁰ European Agricultural Guarantee Fund scheme 2020 is not financed by the MFF 2014-2020.

¹¹ The first eleven instalments will be EUR 300 000 000 each and the final one will be EUR 195 903 950.

77. Apart from these reimbursements, the EIB will not make any other payment, return or remuneration on account of the withdrawal of the UK from the EIB or on account of the provision by the UK of a guarantee.
78. Any call to the callable guarantee or the paid-in (cash or guarantee) will be “pari-passu” with calls on or payments made by the Member States provided that it is used for covering operations at the withdrawal date or for covering risks (such as ALM (Asset-Liability management) risks or operational risks) attributable to the stock of operations at the date of withdrawal. For other such risks not associated with specific loans and not attributable to the stock of operations built after the date of withdrawal, the UK responsibility will be proportional to the ratio between the stock of outstanding operations and the total amount of operations at the date of the event.
79. The UK will maintain the EIB's privileges and immunities under Protocols 5 and 7 annexed to the Treaties throughout the amortisation of the EIB's stock of operations at the date of withdrawal.
80. The UK considers that there could be mutual benefit from a continuing arrangement between the UK and the EIB. The UK wishes to explore these possible arrangements in the second phase of the negotiations.
81. After the date of withdrawal, UK projects will not be eligible for new operations from the EIB reserved for Member States, including those under Union mandates.

European Central Bank (ECB)

82. The paid-in capital of the UK in the ECB will be reimbursed to the Bank of England (BoE) after the date of withdrawal. Modalities and other practical arrangements will be established by the ECB Governing Council following the rules of the Treaties and its Protocol 4.

Facility for Refugees in Turkey, European Union trust funds

83. The UK will honour the commitments it made before withdrawal for participating in the Facility for Refugees in Turkey and the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa. The existing modalities of payments will be maintained unless otherwise agreed in the second phase.

European Development Fund (EDF)

84. The UK will remain party to the European Development Fund (EDF) which is governed by a separate international agreement and is outside the Union budget until the closure of the 11th EDF. The UK will honour its share of the total commitments made under this EDF and the payments related to its share of the outstanding commitments made under previous EDFs. The existing modalities of payments will be maintained unless otherwise agreed in the second phase.
85. The UK share of the Investment Facility of the EDF from successive EDF periods will be returned to the UK as the investment matures. Unless agreed otherwise, the UK's capital share will not be recommitted beyond the end of the 11th EDF commitment period or rolled over into subsequent periods. Reflecting the ongoing commitment in

relation to the EDF, the UK and the Union will agree on governance arrangements in the second phase, that take into account the continued participation of the UK in the 11th EDF, that the EDF falls under a separate international agreement and the UK's withdrawal from the Union.

86. The Commission welcomes the UK Government's offer to discuss with Union Agencies located in London how they might facilitate their relocation, in particular as regards reducing the withdrawal costs.

Other separation issues

87. In the negotiations to date, both Parties have engaged in thorough discussion of the other separation issues in scope in this phase. These discussions have enabled good progress in identifying areas of convergence and divergence. The below text records the progress made in achieving agreement on a number of issues. There remain areas where further discussions will be required to reach agreement during the next phase of negotiations.
88. The UK and the Commission have both proposed further issues for consideration in this phase. However, where there was not mutual agreement that an issue should be discussed in this phase of the negotiations, it has been agreed to return to it later.
89. On **Euratom-related (nuclear specific) issues** both Parties have agreed principles for addressing the key separation issues relating to the UK's withdrawal from Euratom. This includes agreement that the UK will be responsible for international nuclear safeguards in the UK and is committed to a future regime that provides coverage and effectiveness equivalent to existing Euratom arrangements. Both sides have also agreed the principles of ownership for special fissile material (save for material held in the UK by EU27 entities) and responsibility for spent fuel and radioactive waste.
90. On **ensuring continuity in the availability of goods placed on the market under Union law before withdrawal** both Parties recognise the need to provide legal certainty and minimise disruption to business and consumers. Both Parties have agreed the principles that the goods placed on the market under Union law before withdrawal may freely circulate on the markets of the UK and the Union with no need for product modifications or re-labelling; be put into service where provided in Union law, and that the goods concerned should be subject to continued oversight.
91. On **cooperation in civil and commercial matters** there is a need to provide legal certainty and clarity. There is general consensus between both Parties that Union rules on conflict of laws should continue to apply to contracts before the withdrawal date and non-contractual obligations where an event causing damage occurred before the withdrawal date. There was also agreement to provide legal certainty as to the circumstances under which Union law on jurisdiction, recognition and enforcement of judgements will continue to apply, and that judicial cooperation procedures should be finalised.
92. On **police and judicial cooperation in criminal matters** there is a need to provide legal certainty and clarity. Both Parties broadly agree on the principle that all

structured and formalised cooperation procedures ongoing on withdrawal date that have passed a certain threshold (to be defined) should be completed under Union law.

93. On **ongoing Union judicial procedures**, both Parties have agreed that the CJEU should remain competent for UK judicial procedures registered at the CJEU on the date of withdrawal, and that those procedures should continue through to a binding judgment.
94. On **ongoing Union administrative proceedings** both Parties have deepened their understanding of the respective positions, and explored some areas, such as competition, state aid and examinations of the Community Plant Variety Office.
95. On **issues relating to the functioning of the Union institutions, agencies and bodies**, both Parties agree that an arrangement which closely mirrors Union privileges and immunities should remain applicable to activities that took place before withdrawal and as regards new activities foreseen in the Withdrawal Agreement; that both sides continue to ensure compliance with obligations of professional secrecy; and that classified information and other documents obtained by both sides whilst the UK was a Member State retain the same level of protection as before withdrawal.

96. This report is put forward with a view to the meeting of the European Council (Article 50) of 14 and 15 December 2017. It is also agreed by the UK on the condition of an overall agreement under Article 50 on the UK's withdrawal, taking into account the framework for the future relationship, including an agreement as early as possible in 2018 on transitional arrangements.

8 December 2017

TF50 (2017) 20 – Commission to EU 27

Subject: Citizens' rights

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

Remarks: The joint technical note attached expresses the detailed consensus of the UK and EU positions

Published on the TF50 website on 8 December 2017

COMPARISON OF EU/UK POSITIONS ON CITIZENS' RIGHTS – December 2017

The working group completed a mapping of the alignment between the two parties' positions in respect of the Citizens' Rights part of the Withdrawal Agreement.

This joint technical note expresses the detailed consensus reached to date on the UK and EU positions.

#	TOPIC	DETAIL	EU POSITION	UK POSITION	ISSUES
1	Use of EU law concepts		EU law concepts used in Withdrawal Agreement interpreted in line with case law of the Court of Justice of the European Union by the specified date.	EU law concepts used in Withdrawal Agreement interpreted in line with case law of the Court of Justice of the European Union by the specified date.	
2	Personal scope	Specified date	The specified date is the time of the UK's withdrawal.	The specified date is the time of the UK's withdrawal.	
3a		Personal scope	EU citizens and UK nationals resident in accordance with Article 6(1), 7(1)(a) – (c) or (3), 12(3), 14, 16(1) and/or 17 of Directive 2004/38/EC.	EU citizens and UK nationals resident in accordance with Article 6(1), 7(1)(a) – (c) or (3), 12(3), 14, 16(1) and/or 17 of Directive 2004/38/EC.	
3b			EU citizens and UK nationals resident in accordance with Article 21 TFEU.	EU citizens and UK nationals resident in accordance with Article 21 TFEU.	
4		Frontier workers	Those who are working as a frontier worker on the specified date fall within the scope of the Withdrawal Agreement for as long as they retain the status of a frontier worker in the State of work. Such workers retain the rights they currently enjoy to enter and to work in the State of work. The rights they enjoy in their country of residence, including the right to work, are similarly protected.	Those who are working as a frontier worker on the specified date fall within the scope of the Withdrawal Agreement for as long as they retain the status of a frontier worker in the State of work. Such workers retain the rights they currently enjoy to enter and to work in the State of work. The rights they enjoy in their country of residence, including the right to work, are similarly protected.	
4a			A frontier worker, as defined in EU law, is a UK national or an EU citizen pursuing genuine and effective work as an employed or self-employed person in one or more States and who resides in	A frontier worker, as defined in EU law, is a UK national or an EU citizen pursuing genuine and effective work as an employed or self-employed person in one or more States and who resides in	

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		another State (<i>irrespective of whether the person also works in the State of residence</i>), unless or until they no longer retain the status of a worker in the State of work (<i>equivalent to that as defined in Directive 2004/38/EC</i>) or they cease to work across the frontier into the State of work in accordance with Articles 45 and 49 TFEU and Regulation (EU) No 492/2011.	another State (<i>irrespective of whether the person also works in the State of residence</i>), unless or until they no longer retain the status of a worker in the State of work (<i>equivalent to that as defined in Directive 2004/38/EC</i>) or they cease to work across the frontier into the State of work in accordance with Articles 45 and 49 TFEU and Regulation (EU) No 492/2011.	
5	Family members	Irrespective of their nationality, the following will be treated as family members of right holders:	Irrespective of their nationality, the following will be treated as family members of right holders:	
5a	a) those who are lawfully resident in the host State on the specified date	Family members as defined in Article 2 of Directive 2004/38/EC who are resident in accordance with Article 6(2), 7(1)(d), 7(2), 16(2) or 17(3) or (4) of Directive 2004/38/EC;	Family members as defined in Article 2 of Directive 2004/38/EC who are resident in accordance with Article 6(2), 7(1)(d), 7(2), 16(2) or 17(3) or (4) of Directive 2004/38/EC;	
5b		Other family members as defined under Article 3 of Directive 2004/38/EC who are resident in accordance with Article 6(2), 7(1)(d), 7(2), 16(2) or 17(3) or (4) of Directive 2004/38/EC.	Other family members as defined under Article 3 of Directive 2004/38/EC who are resident in accordance with Article 6(2), 7(1)(d), 7(2), 16(2) or 17(3) or (4) of Directive 2004/38/EC.	
5c		EU citizens who are lawfully resident in accordance with Article 21 TFEU.	EU citizens who are lawfully resident in accordance with Article 21 TFEU.	
5d	b) those who are related to the right holder on the specified date but reside outside the host State	All family members as referred to in Article 2 of Directive 2004/38/EC, provided they were related to the right holder on the specified date and they continue to be so related at the point they wish to join the right holder.	All family members as referred to in Article 2 of Directive 2004/38/EC, provided they were related to the right holder on the specified date and they continue to be so related at the point they wish to join the right holder.	
5e		The UK and EU27 will facilitate entry and residence of partners in a durable	The UK and EU27 will facilitate entry and residence of partners in a durable	

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		relationship (<i>Article 3(2)(b) of Directive 2004/38/EC</i>) after the specified date in accordance with national legislation if the partners did not reside in the host State on the specified date, the relationship existed and was durable on the specified date and continues to exist at the point they wish to join the right holder.	relationship (<i>Article 3(2)(b) of Directive 2004/38/EC</i>) after the specified date in accordance with national legislation if the partners did not reside in the host State on the specified date, the relationship existed and was durable on the specified date and continues to exist at the point they wish to join the right holder.	
5f	c) those who become related to the right holder after the specified date	Children born, or legally adopted, after the specified date, whether inside or outside the host State, where:	Children born, or legally adopted, after the specified date, whether inside or outside the host State, where:	
5f(i)		<ul style="list-style-type: none"> ○ the child is born to, or legally adopted by, parents who are both protected by the Withdrawal Agreement or where one parent is protected by the Withdrawal Agreement and the other is a national of the host State; or 	<ul style="list-style-type: none"> ○ the child is born to, or legally adopted by, parents who are both protected by the Withdrawal Agreement or where one parent is protected by the Withdrawal Agreement and the other is a national of the host State; or 	
5f(ii)		<ul style="list-style-type: none"> ○ the child is born to, or legally adopted by, a parent who is protected by the Withdrawal Agreement and who has sole or joint custody of the child under the applicable family law of a EU27 Member State or UK and without prejudging the normal operation of that law, in particular as regards the best interests of the child. 	<ul style="list-style-type: none"> ○ the child is born to, or legally adopted by, a parent who is protected by the Withdrawal Agreement and who has sole or joint custody of the child under the applicable family law of a EU27 Member State or UK and without prejudging the normal operation of that law, in particular as regards the best interests of the child. 	
5g		The right to be joined by other family members, not specified above, after the specified date will be subject to national law.	The right to be joined by other family members, not specified above, after the specified date will be subject to national law.	

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6		Change of status	Rights under the Withdrawal Agreement of EU/UK national family members are maintained irrespective of changes in status (<i>e.g. an EU citizen dependent child becoming a worker, student, self-sufficient person or self-employed person</i>).	Rights under the Withdrawal Agreement of EU/UK national family members are maintained irrespective of changes in status (<i>e.g. an EU citizen dependent child becoming a worker, student, self-sufficient person or self-employed person</i>).	
7		Retained right of residence	Family members with a retained right of residence who are lawfully resident in accordance with Article 12 and 13 of Directive 2004/38/EC on the specified date will fall within the scope of the Withdrawal Agreement.	Family members with a retained right of residence who are lawfully resident in accordance with Article 12 and 13 of Directive 2004/38/EC on the specified date will fall within the scope of the Withdrawal Agreement.	
8		Children and education	Rights of EU child to pursue education (based on judgments in cases C-200/02 <i>Chen</i> and C-480/08 <i>Teixeira</i>) protected for period of child's education.	Rights of EU child to pursue education (based on judgments in cases C-200/02 <i>Chen</i> and C-480/08 <i>Teixeira</i>) protected for period of child's education.	
9	Residence	Eligibility criteria	Permanent or temporary residence will be granted in accordance with the objective criteria established in the Withdrawal Agreement (i.e. no discretion, unless in favour of the applicant).	Permanent or temporary residence will be granted in accordance with the objective criteria established in the Withdrawal Agreement (i.e. no discretion, unless in favour of the applicant).	
10		Temporary residence	Temporary residence will be granted on the basis of less than 5 years' residence to those who fulfil the conditions of Article 6 and 7 of Directive 2004/38/EC – right to change status (<i>e.g. student to worker</i>) will be maintained.	Temporary residence will be granted on the basis of less than 5 years' residence to those who fulfil the conditions of Article 6 and 7 of Directive 2004/38/EC - right to change status (<i>e.g. student to worker</i>) will be maintained.	
11		Continuity of residence	Definition of continuity of residence as per Article 16 (3) and 21 of Directive 2004/38/EC (<i>i.e. permitted absence of 6 months in any 12 months or 12 months for an important reason e.g. childbirth</i>).	Definition of continuity of residence as per Article 16 (3) and 21 of Directive 2004/38/EC (<i>i.e. permitted absence of 6 months in any 12 months or 12 months for an important reason e.g. childbirth</i>).	

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12	Permanent residence	Conditions for acquiring permanent residence as per Article 16 of Directive 2004/38/EC (<i>5 years of continuous and lawful residence as a worker/self-employed person, student, self-sufficient person (Article 7(1)(b) of Directive 2004/38/EC), or family member thereof</i>), with periods of lawful residence prior to the specified date included in the calculation of the five year condition.	Conditions for acquiring permanent residence as per Article 16 of Directive 2004/38/EC (<i>5 years of continuous and lawful residence as a worker/self-employed person, student, self-sufficient person (Article 7(1)(b) of Directive 2004/38/EC), or family member thereof</i>), with periods of lawful residence prior to the specified date included in the calculation of the five year condition.	
13		Conditions for acquiring permanent residence as per Articles 17 and 18 of Directive 2004/38/EC (<i>e.g. retired people, permanent incapacity</i>).	Conditions for acquiring permanent residence as per Article 17 and 18 of Directive 2004/38/EC (<i>e.g. retired people, permanent incapacity</i>).	
14	Loss of permanent residence	Loss of permanent residence status after absence for a period exceeding five consecutive years. States are not obliged, either under Article 16 or other provisions of Directive 2004/38/EC, to terminate permanent residence status whenever five years of absence are exceeded.	Loss of permanent residence/settled status after absence for a period exceeding five consecutive years. States are not obliged, either under Article 16 or other provisions of Directive 2004/38/EC, to terminate permanent residence status whenever five years of absence are exceeded.	
15	Criminality committed by the specified date	Any restrictions of rights on grounds of public policy or security related to conduct prior to the specified date of persons covered by the Withdrawal Agreement will be in accordance with Chapter VI of Directive 2004/38/EC.	Any restrictions of rights on grounds of public policy or security related to conduct prior to the specified date of persons covered by the Withdrawal Agreement will be in accordance with Chapter VI of Directive 2004/38/EC.	
16	Criminality committed after the specified date	Any restrictions of rights on grounds of public policy or security related to conduct after the specified date will be in accordance with national law.	Any restrictions of rights on grounds of public policy or security related to conduct after the specified date will be in accordance with national law.	

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17	Abuse of rights and fraudulent applications	<p>The host State may adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Withdrawal Agreement in the case of abuse of those rights or fraud as per Article 35 of Directive 2004/38/EC.</p> <p>Such measures should be subject to the procedural safeguards provided for in row 18.</p>	<p>The host State may adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Withdrawal Agreement in the case of abuse of those rights or fraud as per Article 35 of Directive 2004/38/EC.</p> <p>Such measures should be subject to the procedural safeguards provided for in row 18.</p>	
18	Procedural safeguards and judicial redress	There will be safeguards in the Withdrawal Agreement for a fair procedure, and decisions will be subject to the redress mechanisms and judicial controls provided in Articles 15 and 30 - 32 of Directive 2004/38/EC.	There will be safeguards in the Withdrawal Agreement for a fair procedure, and decisions will be subject to the redress mechanisms and judicial controls provided in Articles 15 and 30 - 32 of Directive 2004/38/EC.	
19	Associated rights, including economic rights and equal treatment	Individuals will maintain all their rights, including equal treatment, within the limits of Articles 18, 21, 45 and 49 TFEU, Article 24 of Directive 2004/38/EC and Regulation (EU) No 492/2011 including rights of workers, self-employed, students and economically inactive citizens with respect to social security, social assistance, health care, employment, self-employment and managing an undertaking (<i>for example, the right to equal treatment in the participation in the capital of EU companies or firms</i>), education (<i>including higher education</i>) and training, social and tax advantages.	Individuals will maintain all their rights, including equal treatment, within the limits of Articles 18, 21, 45 and 49 TFEU, Article 24 of Directive 2004/38/EC and Regulation (EU) No 492/2011 including rights of workers, self-employed, students and economically inactive citizens with respect to social security, social assistance, health care, employment, self-employment and managing an undertaking (<i>for example, the right to equal treatment in the participation in the capital of EU companies or firms</i>), education (<i>including higher education</i>) and training, social and tax advantages.	
20	Duration of rights	Life-long protection for the right holder as guaranteed by the Withdrawal	Life-long protection for the right holder as guaranteed by the Withdrawal	

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		Agreement.	Agreement.	
21		More favourable treatment	More favourable national provisions can apply in accordance with Article 37 of Directive 2004/38/EC.	More favourable national provisions can apply in accordance with Article 37 of Directive 2004/38/EC.
22	Administrative procedures	Administrative procedures – declaratory system	<p>States can continue with the present system under which entitlement to rights under the Withdrawal Agreement is conferred directly on beneficiaries by the Withdrawal Agreement and is not dependent upon their having fulfilled administrative procedures.</p> <p>Possession of a residence document may not be made a precondition for the exercise of the entitlement, as it may be attested by any other means of proof.</p>	<p>States can continue with the present system under which entitlement to rights under the Withdrawal Agreement is conferred directly on beneficiaries by the Withdrawal Agreement and is not dependent upon their having fulfilled administrative procedures.</p> <p>Possession of a residence document may not be made a precondition for the exercise of the entitlement, as it may be attested by any other means of proof.</p>
23		Administrative procedures – constitutive system	<p>Alternatively, States can require persons concerned to apply to obtain a status conferring the rights of residence as provided for by the Withdrawal Agreement and be issued with a residence document attesting to the existence of that right.</p> <p>Where the host State requires persons concerned to apply for a status, no status is obtained if no successful application is made, subject to the paragraph below.</p> <p>Where an application is required to obtain status, adequate time of at least two years must be allowed to persons</p>	<p>Alternatively, States can require persons concerned to apply to obtain a status conferring the rights of residence as provided for by the Withdrawal Agreement and be issued with a residence document attesting to the existence of that right.</p> <p>Where the host State requires persons concerned to apply for a status, no status is obtained if no successful application is made, subject to the paragraph below.</p> <p>Where an application is required to obtain status, adequate time of at least two years must be allowed to persons</p>

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		within scope of the Withdrawal Agreement to submit their applications. During this time period, they will enjoy the rights conferred by the Withdrawal Agreement.	within scope of the Withdrawal Agreement to submit their applications. During this time period, they will enjoy the rights conferred by the Withdrawal Agreement.	
24	Administrative procedures in general	Administrative procedures for applications for status will be transparent, smooth and streamlined.	Administrative procedures for applications for status will be transparent, smooth and streamlined.	
25		The Withdrawal Agreement will specify that the host States cannot require anything more than is strictly necessary and proportionate to determine whether the criteria have been met. The Withdrawal Agreement will contain provisions that follow a similar approach to the provisions on evidential requirements in Directive 2004/38/EC.	The Withdrawal Agreement will specify that the host States cannot require anything more than is strictly necessary and proportionate to determine whether the criteria have been met. The Withdrawal Agreement will contain provisions that follow a similar approach to the provisions on evidential requirements in Directive 2004/38/EC.	
26		The host State will avoid any unnecessary administrative burdens.	The host State will avoid any unnecessary administrative burdens.	
27		Application forms will be short, simple, user friendly and adjusted to the context of the Withdrawal Agreement.	Application forms will be short, simple, user friendly and adjusted to the context of the Withdrawal Agreement.	
28		Competent authorities will give applicants the opportunity to furnish supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling competent authorities to exercise discretion in favour of the applicant where appropriate.	Competent authorities will give applicants the opportunity to furnish supplementary evidence or remedy any deficiencies where it appears a simple omission has taken place. A principle of evidential flexibility will apply, enabling competent authorities to exercise discretion in favour of the applicant where appropriate.	
29		The host State will work with the applicants to help them prove their eligibility under the Withdrawal	The host State will work with the applicants to help them prove their eligibility under the Withdrawal	

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		Agreement and to avoid any errors or omissions that may impact on the application decision.	Agreement and to avoid any errors or omissions that may impact on the application decision.	
30		Applications made by families at the same time will be considered together.	Applications made by families at the same time will be considered together.	
31	Safeguards related to decision-making procedure	Decisions taken under the procedure for obtaining status under the Withdrawal Agreement will be made in accordance with objective criteria established in the Withdrawal Agreement.	Decisions taken under the procedure for obtaining status under the Withdrawal Agreement will be made in accordance with objective criteria established in the Withdrawal Agreement.	
32		There will be no discretion to refuse status other than for reasons allowed by the Withdrawal Agreement, but discretion can be exercised in favour of the applicant.	There will be no discretion to refuse status other than for reasons allowed by the Withdrawal Agreement, but discretion can be exercised in favour of the applicant.	
33		A proportionate approach will be taken to those who miss the deadline for application where there is a good reason.	A proportionate approach will be taken to those who miss the deadline for application where there is a good reason.	
34		Decisions of national authorities and courts will be subject to the redress mechanisms and judicial controls provided in Directive 2004/38/EC.	Decisions of national authorities and courts will be subject to the redress mechanisms and judicial controls provided in Directive 2004/38/EC.	
35		The Citizens' Rights part of the Withdrawal Agreement will apply to the applicants who sought judicial redress against rejection of their applications until the decision becomes final. This is without prejudice to the right of the host State to remove applicants from the territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35, even before a final judgment has been handed down in case of judicial redress	The Citizens' Rights part of the Withdrawal Agreement will apply to the applicants who sought judicial redress against rejection of their applications until the decision becomes final. This is without prejudice to the right of the host state to remove applicants from the territory under the conditions set out in Directive 2004/38/EC, in particular Articles 31 and 35, even before a final judgment has been handed down in case of judicial redress	

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		sought against any rejection of their applications.	sought against any rejection of their applications.	
36	Current holders of permanent residence certificate	<p>In order to obtain status under the Withdrawal Agreement by application, those already holding a valid permanent residence document issued under EU law on the specified date will have that document converted into the new document free of charge, subject to verification of identity, a criminality and security check and confirmation of ongoing residence.</p> <p>This includes beneficiaries of the Withdrawal Agreement who hold valid domestic immigration documents conferring a permanent right to reside in the host State, such as UK Indefinite Leave to Remain (ILR) status.</p>	<p>In order to obtain status under the Withdrawal Agreement by application, those already holding a valid permanent residence document issued under EU law on the specified date will have that document converted into the new document free of charge, subject to verification of identity, a criminality and security check and confirmation of ongoing residence.</p> <p>This includes beneficiaries of the Withdrawal Agreement who hold valid domestic immigration documents conferring a permanent right to reside in the host State, such as UK Indefinite Leave to Remain (ILR) status.</p>	
37	Administrative procedures – criminality checks	Systematic criminality and security checks can – in the specific context of acquiring status under the Withdrawal Agreement – be carried out on all applicants for status under the Agreement. The applicants can be asked to declare criminality. Any consequences arising from such checks and declarations will be subject to the procedures in row 23.	Systematic criminality and security checks can – in the specific context of acquiring status under the Withdrawal Agreement – be carried out on all applicants for status under the Agreement. The applicants can be asked to declare criminality. Any consequences arising from such checks and declarations will be subject to the procedures in row 23.	
38	ID requirements for documentation as a beneficiary of the Withdrawal Agreement	<p>As per Directive 2004/38/EC – valid passport or national identity card.</p> <p>Biometric information (photo) may be required for UK nationals and EU citizens.</p>	<p>As per Directive 2004/38/EC – valid passport or national identity card.</p> <p>Biometric information (photo) may be required for UK nationals and EU citizens.</p>	

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39		Fees for documentation	<p>Free of charge or for a charge not exceeding that imposed on nationals for issuing of similar documents.</p> <p>Current holders of permanent residence documents and beneficiaries of the Withdrawal Agreement who hold a valid document conferring a permanent right to reside in the host State (<i>such as Indefinite Leave to Remain in the UK</i>) to exchange for updated documentation free of charge.</p>	<p>Free of charge or for a charge not exceeding that imposed on nationals for issuing of similar documents.</p> <p>Current holders of permanent residence documents and beneficiaries of the Withdrawal Agreement who hold a valid document conferring a permanent right to reside in the host State (<i>such as Indefinite Leave to Remain in the UK</i>) to exchange for updated documentation free of charge.</p>	
40	Social security coordination	Personal scope ¹	<p>Persons within the personal scope of Regulation (EC) No 883/2004 as covered in Article 2 who on the specified date are or have been subject to the legislation of an EU27 Member State for UK nationals, or UK legislation for EU27 citizens, and EU27 and UK nationals within the personal scope of the agreement by virtue of residence.</p>	<p>Persons within the personal scope of Regulation (EC) No 883/2004 as covered in Article 2 who on the specified date are or have been subject to the legislation of an EU27 Member State for UK nationals, or UK legislation for EU27 citizens, and EU27 and UK nationals within the personal scope of the agreement by virtue of residence.</p>	
41		Past residence and work	<p>EU and UK citizens having worked or resided in the EU27/UK in the past will, for the purposes of aggregation of periods of social security insurance, including rights flowing from such periods, in accordance with Regulation (EC) No 883/2004 be covered by the Withdrawal Agreement.</p>	<p>EU and UK citizens having worked or resided in the EU27/UK in the past will, for the purposes of aggregation of periods of social security insurance, including rights flowing from such periods, in accordance with Regulation (EC) No 883/2004 be covered by the Withdrawal Agreement.</p>	
42		Past and future	<p>Contributions both before and after the</p>	<p>Contributions both before and after the</p>	

¹ This includes stateless persons and refugees (*Article 2(2) of Regulation (EC) No 883/2004*).

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	contributions – Aggregation under the Withdrawal Agreement	specified date in the EU27 and the UK will be recognised for those covered by the Withdrawal Agreement.	specified date in the EU27 and the UK will be recognised for those covered by the Withdrawal Agreement.	
43	Equal treatment	Equal treatment under the conditions set out in EU law.	Equal treatment under the conditions set out in EU law.	
44	Benefits	All those referred to in Regulation (EC) No 883/2004.	All those referred to in Regulation (EC) No 883/2004.	
45	Benefits – export of benefits	Lifetime export under conditions in Regulation (EC) No 883/2004, including lifetime export of uprated pensions.	Lifetime export under conditions in Regulation (EC) No 883/2004, including lifetime export of uprated pensions.	
46	Healthcare – material scope	The rules for healthcare will follow Regulations (EC) No 883/2004 and 987/2009.	The rules for healthcare will follow Regulations (EC) No 883/2004 and 987/2009. For instance, responsibility for funding healthcare lies with the competent authority for State Pensions.	
47	Healthcare – personal scope	Persons whose competent State is the UK and are in the EU27 on the specified date (<i>and vice versa</i>) – whether on a temporary stay or resident – continue to be eligible for healthcare reimbursement, including under the EHIC scheme, as long as that stay or residence position continues. This includes, for instance, EU27 citizens working in the UK on the specified date (<i>and vice versa for UK nationals in the EU27</i>); EU27 pensioners living in the UK on the specified date (<i>and vice versa</i>); and EU27 nationals studying in the UK on the specified date (<i>and vice versa</i>).	Persons whose competent State is the UK and are in the EU27 on the specified date (<i>and vice versa</i>) – whether on a temporary stay or resident – continue to be eligible for healthcare reimbursement, including under the EHIC scheme, as long as that stay or residence position continues. This includes, for instance, EU27 citizens working in the UK on the specified date (<i>and vice versa for UK nationals in the EU27</i>); EU27 pensioners living in the UK on the specified date (<i>and vice versa</i>); and EU27 nationals studying in the UK on the specified date (<i>and vice versa</i>).	

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		<p>The Withdrawal Agreement also covers entitlement to healthcare reimbursement under the S1 scheme that arises by virtue of past residence or work, in accordance with the personal scope of the agreement in relation to social security rights.</p> <p>It will also protect the position of people who are undertaking a course of treatment started before the specified date for the duration of that treatment course, irrespective of residence.</p>	<p>The Withdrawal Agreement also covers entitlement to healthcare reimbursement under the S1 scheme that arises by virtue of past residence or work, in accordance with the personal scope of the agreement in relation to social security rights.</p> <p>It will also protect the position of people who are undertaking a course of treatment started before the specified date for the duration of that treatment course, irrespective of residence.</p>	
48		Coordination principles	All other coordination principles of Regulation (EC) No 883/2004.	
49		Administrative cooperation	Cooperation between national authorities as set out in Regulations (EC) No 883/2004 and 987/2009.	
50			For rights and obligations set out in Regulations (EC) No 883/2004 and 987/2009 on the coordination of social security systems, a mechanism should be established to decide jointly on the incorporation of future amendments to those regulations in the Withdrawal Agreement.	
51	Professional qualifications	Personal scope	The rights of EU27 persons resident in the UK on the specified date and vice versa as well as frontier workers.	
52		Equal treatment	Equal treatment with national professionals (<i>Articles 45 and 49 TFEU</i>) where professionals are resident in the UK on the specified date and vice versa.	

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53	Material scope	To be grandfathered:	To be grandfathered:	
53a		<ul style="list-style-type: none"> ○ decisions on recognition of EU 28 qualifications granted before the specified date either in the UK or in any other EU 27 under Title III of Directive 2005/36/EC (<i>PQD</i>), Article 10 of Directive 98/5/EC (<i>lawyers practising under host title</i>) and Article 14 of Directive 2006/43/EC (<i>approved statutory auditors</i>). 	<ul style="list-style-type: none"> ○ decisions on recognition of EU 28 qualifications granted before the specified date either in the UK or in any other EU 27 under Title III of Directive 2005/36/EC (<i>PQD</i>), Article 10 of Directive 98/5/EC (<i>lawyers practising under host title</i>) and Article 14 of Directive 2006/43/EC (<i>approved statutory auditors</i>). 	
53b		<ul style="list-style-type: none"> ○ decisions on recognition of third country qualifications which have been assimilated to EU qualifications after three years of exercise in the EU28 country which first recognised them. 	<ul style="list-style-type: none"> ○ decisions on recognition of third country qualifications which have been assimilated to EU qualifications after three years of exercise in the EU28 country which first recognised them. 	
53c		<ul style="list-style-type: none"> ○ on-going recognition procedures to be completed under the rules applicable before the specified date (<i>both EU and third-country recognitions</i>) including ongoing compensatory measures to obtain recognition under Title III of Directive 2005/36/EC (<i>PQD</i>), Article 14 of Directive 2006/43/EC (<i>approved statutory auditors</i>) and Article 10 of Directive 98/5/EC (<i>lawyers practising under host title</i>) including procedures under Article 10(1) of Directive 98/5/EC. 	<ul style="list-style-type: none"> ○ on-going recognition procedures to be completed under the rules applicable before the specified date (<i>both EU and third-country recognitions</i>) including ongoing compensatory measures to obtain recognition under Title III of Directive 2005/36/EC (<i>PQD</i>), Article 14 of Directive 2006/43/EC (<i>approved statutory auditors</i>) and Article 10 of Directive 98/5/EC (<i>lawyers practising under host title</i>) including procedures under Article 10(1) of Directive 98/5/EC. 	
54	Territorial scope	Grandfathering of decisions on recognition of qualifications in the host	Grandfathering of decisions on recognition of qualifications in the host	

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			State and, for frontier workers, in the State of work.	State and, for frontier workers, in the State of work.	
55	Governance <i>(for the Governance part of the Agreement)</i>	Direct effect	The provision in the Agreement should enable citizens to rely directly on their rights as set out in the citizens' rights Part of the Agreement and should specify that inconsistent or incompatible rules and provisions will be disapplied.	The provision in the Agreement should enable citizens to rely directly on their rights as set out in the citizens' rights Part of the Agreement and should specify that inconsistent or incompatible rules and provisions will be disapplied.	
56		Role of the Court of Justice of the European Union	The citizens' rights Part of the Agreement establishes rights following on from those established in Union law during the UK's membership of the European Union; the CJEU is the ultimate arbiter of the interpretation of Union law. In the context of the application or interpretation of those rights, UK courts shall therefore have due regard to relevant decisions of the CJEU after the specified date. The Agreement should also establish a mechanism enabling UK courts or tribunals to decide, having had due regard to whether relevant case-law exists, to ask the CJEU questions of interpretation of those rights where they consider that a CJEU ruling on the question is necessary for the UK court or tribunal to be able to give judgment in a case before it. This mechanism should be available for UK courts or tribunals for litigation brought within 8 years from the date of application of the citizens' rights Part.	The citizens' rights Part of the Agreement establishes rights following on from those established in Union law during the UK's membership of the European Union; the CJEU is the ultimate arbiter of the interpretation of Union law. In the context of the application or interpretation of those rights, UK courts shall therefore have due regard to relevant decisions of the CJEU after the specified date. The Agreement should also establish a mechanism enabling UK courts or tribunals to decide, having had due regard to whether relevant case-law exists, to ask the CJEU questions of interpretation of those rights where they consider that a CJEU ruling on the question is necessary for the UK court or tribunal to be able to give judgment in a case before it. This mechanism should be available for UK courts or tribunals for litigation brought within 8 years from the date of application of the citizens' rights Part.	

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57	Monitoring and oversight	<p>The implementation and application of the citizens' rights Part will be monitored in the Union by the Commission acting in conformity with the Union Treaties. In the UK, this role will be fulfilled by an independent national authority; its scope and functions, including its role in acting on citizens' complaints, will be discussed between the parties in the next phase of the negotiations and reflected in the Withdrawal Agreement. There should be regular exchange of information between the UK government and the Commission.</p>	<p>The implementation and application of the citizens' rights Part will be monitored in the Union by the Commission acting in conformity with the Union Treaties. In the UK, this role will be fulfilled by an independent national authority ; its scope and functions, including its role in acting on citizens' complaints, will be discussed between the parties in the next phase of the negotiations and reflected in the Withdrawal Agreement. There should be regular exchange of information between the UK government and the Commission.</p>	
58	Other matters	<p>The following other matters were raised by the UK, but were outside the scope of the EU mandate for the first phase of the negotiations.</p> <ul style="list-style-type: none"> • the continuing protection of rights for UK nationals covered by the Withdrawal Agreement who move after the specified date to take up residence in another Member State; • posted workers; • future healthcare arrangements; • professional qualifications – future recognition decisions, recognition of qualifications of non-residents, and equal treatment for professionals who are neither frontier workers nor resident; • recognition of licences and certificates that are currently recognised EU-wide • lawyers practising under home title; and • territorial scope of economic rights, in particular secondary establishment and cross-border provision of services. 		