



Shanker A. Singham  
Robert MacLean  
Hans Maessen

12 December 2018

## **Amendments to the UK-EU Withdrawal Agreement**

1. Unless incompatible with the terms of the New Protocol on Ireland/Northern Ireland hereinafter set out, any pertinent or relevant terms of the UK-EU Withdrawal Agreement endorsed at the European Council on 25<sup>th</sup> November 2018 (the “Withdrawal Agreement”) are assumed to be incorporated by reference into this New Protocol on Ireland/Northern Ireland.
2. All relevant parties, namely the European Union, the Republic of Ireland and the United Kingdom, agree not to place physical infrastructure or introduce related checks and controls on the Irish border in any circumstances. If the parties have not negotiated arrangements to guarantee this objective by the end of the Transition Period, the New Protocol on Ireland/Northern Ireland shall come into effect.
3. The terms of the Withdrawal Agreement expressly regulating the conditions and requirements for the protection of geographical indications of origin conferred under Union legislation and implementing measures are hereby expressly excluded from application under the New Protocol on Ireland/Northern Ireland, and also under the Withdrawal Agreement in any way.
4. The jurisdiction of the Court of Justice of the European Union in dispute settlement matters between the union and the United Kingdom is expressly excluded in the application and interpretation of the New Protocol on Ireland/Northern Ireland. The Court of Justice of the European Union shall only have jurisdiction over matters of European law during the transition period.
5. The European Union and the United Kingdom shall exercise their right as independent and separate Members of the World Trade Organisation and assume their respective obligations in their separate capacities as Members from the date the UK leaves the EU on March 29<sup>th</sup>, 2019. The United Kingdom will negotiate the modification of its own schedules by itself, without any need for approval from the European Union on the basis that it is an exiting Member State and a member of the WTO but may coordinate its actions with the European Union between now and March 29<sup>th</sup>, 2019.
6. Nothing in the New Protocol on Ireland/Northern Ireland shall imply the creation, existence or maintenance of a single customs territory between the European Union and the United Kingdom.
7. The Transition Period shall end on December 31, 2020 unless it is extended by agreement of both Parties.
8. The payment of money agreed between the EU and UK will be partially paid at the point of the UK’s exit, and then the remainder to be paid upon the achievement of milestones connected with the negotiation of the Free Trade Agreement.

## **New Protocol on Ireland/Northern Ireland**

The European Union and its Member States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, hereinafter referred to as “the European Union” and the “United Kingdom” respectively, individually as “a Party” and jointly as “the Parties”,

Having regard to the departure of the United Kingdom from the European Union on 29th March 2019;

Recognising the close economic, commercial and customs integration and cooperation achieved during the past period of the United Kingdom’s membership of the European Union and the high level of harmonisation in customs procedures achieved during that period;

Acknowledging that this level of integration and cooperation constitutes a unique opportunity for the introduction and operation of highly simplified and reliable customs clearance procedures for cross-border trade between the Parties;

Recalling that the United Kingdom's withdrawal from the Union presents a significant and unique challenge to the island of Ireland, and reaffirming that the achievements, benefits and commitments of the peace process will remain of paramount importance to peace, stability and reconciliation there;

Recognising that it is necessary to address the unique circumstances on the island of Ireland through a unique solution in order to ensure the orderly withdrawal of the United Kingdom from the Union;

Acknowledging that the Withdrawal Agreement, which is based on Article 50 TEU, does not aim at establishing a permanent future relationship between the Union and the United Kingdom;

Recognising that the Parties seek a Free Trade Agreement taking into consideration all relevant aspects of the integrity of the EU single market and customs union and the subsequent independent trade policy and regulatory autonomy of both Parties;

Considering the desire on the part of both Parties to achieve, to the maximum extent possible, the highest levels of simplification of customs procedures and formalities relating to cross-border trade in goods and to promote trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices;

Considering such simplification should be progressively developed to achieve as frictionless trade as possible for industrial products to ensure minimum disruption to supply chain management, logistics and timely delivery of parts, components and raw materials for specific industries including the car and vehicle and aeronautical ones;

Desiring to ensure transparency of each Party's customs legislation and other trade-related laws and regulations and consistency thereof with applicable international standards;

Confirming the importance of predictable, consistent and non-discriminatory application by each Party of its customs legislation and other trade-related laws and regulations;

Encouraging the further development of risk management techniques to facilitate legitimate trade while securing the international trade supply chain;

Acknowledging that both Parties seek an enhanced level of cooperation between their customs agencies;

Affirming that risk assessment for cross-border trade can be based on the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk rather than requiring each shipment offered for entry to be examined in a comprehensive manner for compliance with import or export requirements;

Desiring to enhance cooperation between the Parties in the field of customs matters and trade facilitation;

Confirming their joint political will to work together in any field that is of mutual interest in the development of the aims and objectives of this Chapter;

Considering that the Parties have adequate levels of personal data protection to ensure the implementation of these customs facilitation measures and actions;

HAVE AGREED AS FOLLOWS:

#### **Article 1: Objectives and Relationship to Subsequent Agreement**

- 1.1 The objective of the Withdrawal Agreement is not to establish a permanent relationship between the Union and the United Kingdom. The provisions of this Protocol are therefore intended to apply only temporarily, taking into account the commitments of the Parties set out in Article 2.
- 1.2 This Protocol respects the essential State functions and territorial integrity of the United Kingdom.
- 1.3 This Protocol is without prejudice to the provisions of the 1998 Agreement regarding the constitutional status of Northern Ireland and the principle of consent, which provides that any change in that status can only be made with the consent of a majority of its people.
- 1.4 This Protocol sets out arrangements necessary to address the unique circumstances on the island of Ireland, maintain the necessary conditions for continued North-South cooperation, avoid a hard border and protect the 1998 Agreement in all its dimensions.

#### **Article 2: Commencement and Termination**

- 2.1 Subject to Paragraphs 2 and 3 below, unless otherwise agreed between the Parties, this Protocol will enter into force at the end of the Transition Period specified in Article 126 of the Withdrawal Agreement.
- 2.2 Once a subsequent agreement between the Union and the United Kingdom becomes applicable, this Protocol shall then, from the date of application of such subsequent

agreement and in accordance with the provisions of that agreement setting out the effect of that Agreement on this Protocol cease to apply.

- 2.3 Unless and until superseded by a subsequent agreement between the Parties as set out in Article 2.2, this Protocol will remain in force for a period of ten years from the end of the Transition Period. Upon the expiry of this period, either Party may terminate this Protocol by serving the other with formal written notice of intention to do so on the Depository specified in Article 183 of the Withdrawal Agreement. This Protocol shall be terminated one year after the date of that notice. The Party giving a notice of termination shall also provide the Joint Committee established under Article 164 of the Withdrawal Agreement with a copy of the notice.
- 2.4 In order to prepare for this Protocol coming into effect the parties shall establish a Working Group to establish and implement solutions with a view to the creation of a Free Trade Area comprising the Union and the United Kingdom, including detailed provision of customs cooperation and trade facilitation at the Irish border by the end of the transition period.

### **Article 3: Free Trade Area**

- 3.1 Until the future relationship becomes applicable, and subject to earlier termination pursuant to Article 2, a free trade area between the Union and the United Kingdom shall be established (the "Free Trade Area").

The Free Trade Area shall comprise:

- (a) the customs territory of the Union, defined in Article 4 of Regulation (EU) No952/2013; and
- (b) the customs territory of the United Kingdom.

- 3.2 The rules set out in Annexes 1 to 6 of this Protocol shall apply in respect of all trade in goods between the territories referred to in Article 3.1.
- 3.3 By derogation from the second subparagraph, fishery and aquaculture products, as set out in Annex I to Regulation (EU) 1379/2013 ("fishery and aquaculture products"), shall not be covered by the rules set out in Annexes 2 and 3, as well as the rules referred to in the fourth subparagraph, unless an agreement on access to waters and fishing opportunities is applicable between the Union and the United Kingdom. In accordance with Article 184 of the Withdrawal Agreement, the Parties shall use their best endeavours to conclude and ratify such an agreement before 1 July 2020.
- 3.4 The Joint Committee may adopt decisions amending the Annexes to this Protocol, where such amendments are necessary for the proper functioning of this paragraph. Such decisions may not amend the essential elements of this Protocol or the Withdrawal Agreement.
- 3.5 The second subparagraph of this paragraph is without prejudice to the specific arrangements set out in the Protocol relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

#### **Article 4: Elimination of Customs Duties and Measures Having Equivalent Effect, Trade Facilitation and Level Playing Field Conditions**

- 4.1 The rules set out in Annex 1 (Prohibitions on Customs Duties and Measures Having Equivalent Effect) to this Protocol shall apply in respect of all trade in originating goods between the territories referred to in the Article 3.1
- 4.2 The Joint Committee shall adopt before 1 July 2020 the detailed rules relating to trade in goods between the two parts of the free trade area for the implementation of this paragraph. In the absence of such a decision adopted before 1 July 2020, Annex 2 (Customs Facilitation Requirements and Procedures) shall apply.
- 4.3 With a view to ensuring the maintenance of the level playing field conditions required for the proper functioning of this paragraph, the provisions set out in Annex 3 (Level Playing Field Conditions) to this Protocol shall apply. Where appropriate, the Joint Committee may modify Annex 3 to lay down higher standards for these level playing field conditions.

#### **Article 5: Rights of Individuals**

- 5.1 The United Kingdom shall ensure that no diminution of rights, safeguards and equality of opportunity as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination as enshrined in the provisions of Union law and shall implement this paragraph through dedicated mechanisms.
- 5.2 The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

#### **Article 6: Common Travel Area**

- 6.1 The United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (the "Common Travel Area"), while fully respecting the rights of natural persons conferred by Union law.
- 6.2 The United Kingdom and Ireland shall each use their best endeavours to ensure that the Common Travel Area and the associated rights and privileges can continue to apply without affecting the obligations of the other under their respective national and international law commitments, in particular with respect to free movement for Union citizens and their family members, irrespective of their nationality, to, from and within Ireland.

## **Article 7: Ireland Border Measures**

- 7.1 The Parties undertake to respect the commitments, specific facilitations and measures to ensure that no physical infrastructure is required in respect of movement of goods across the Irish border set out in Annex 4 (Ireland Border Measures).

## **Article 8: Technical Regulations**

- 8.1 The Parties shall observe the obligations set out in Annex 5 (Mutual Recognition of Conformity Assessment).

## **Article 9: Animal Health and Trade in Animals and Animal Products**

- 9.1 Without prejudice to the specific commitments set out in Annex 4 (Ireland Border Measures), the Parties shall observe the obligations set out in Annex 6 (Animal Health and Zootechnical Measures Applicable to Trade in Live Animals and Animal Products).

## **Article 10: Single Energy Market**

- 10.1 The United Kingdom shall maintain in place in respect of Northern Ireland laws and regulations in alignment with relevant provisions of Union law governing wholesale electricity markets (Single Electricity Market).

## **Article 11: Common Provisions**

- 11.1 The Parties recognise that, as at the date of withdrawal of the United Kingdom from the European Union, the laws and regulations of the United Kingdom are fully aligned with the applicable and relevant Union rules.
- 11.2 Unless expressly otherwise in this Protocol, from the date of withdrawal of the United Kingdom from the European Union, the United Kingdom will assume full competence to adopt legislation, regulations and other measures falling inside the scope of this Protocol.
- 11.3 Where either Party (the “Amending Party”) amends, replaces or adopts a new act that falls within the scope of this Protocol, the Amending Party shall inform the other Party of this amendment replacement or adoption in the Joint Committee. Upon request of the Union or the United Kingdom, the Joint Committee shall hold an exchange of views on the implications of the amended, replaced or newly adopted act for the proper functioning of this Protocol within 6 weeks after the request.
- 11.4 As soon as reasonably practical after the Amending Party has informed the other Party in the Joint Committee, the Joint Committee shall either:
- (a) adopt a decision on continuation of equivalence thereby adding the newly adopted act to, or retaining the amended or replaced act in the relevant Annex of this Protocol, as applicable; or
  - (b) where an agreement on adding the newly adopted act to, or retaining the amended or replaced act in, the relevant Annex to this Protocol cannot be reached, examine

all further possibilities to maintain the good functioning of this Protocol and take any decision necessary to this effect.

- 11.5 The United Kingdom shall not amend, replace or adopt a new act in relation to the subject matter of listed animal health, veterinary rules, disease control regulations that would make the laws and regulations in force in Northern Ireland incompatible with those in force in the Republic of Ireland unless approved by the Northern Ireland Assembly through applicable legislative procedures.

#### **Article 12: Specialised Committee**

12.1 The Committee on Issues Related to the Implementation of the Protocol on Ireland/Northern Ireland established by Article 165.1.(c) of the Withdrawal Agreement (the "Specialised Committee") shall:

- (a) facilitate the implementation and application of this Protocol;
- (b) examine proposals concerning the implementation and application of this Protocol from the North-South Ministerial Council and North-South Implementation bodies set up under the 1998 Agreement;
- (c) consider any matter of relevance to Annex 4 of this Protocol brought to its attention by the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland, and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland;
- (d) discuss any point raised by the Union or the United Kingdom that is of relevance to this Protocol and gives rise to a difficulty; and
- (e) make recommendations to the Joint Committee as regards the functioning of this Protocol.

#### **Article 13: Joint Consultative Working Group**

13.1 A joint consultative working group on the implementation of this Protocol is hereby established. It shall serve as a forum for the exchange of information and mutual consultation.

13.2 The working group shall be composed of representatives of the Union and the United Kingdom and shall carry out its functions under the supervision of the Specialised Committee, to which it shall report. The working group shall have no power to take binding decisions other than that referred to in paragraph 6.

13.3 Within the working group:

- (a) the Union and the United Kingdom shall, in a timely manner, exchange information about planned, ongoing and final relevant implementation measures in relation to the Union acts listed in the Annexes to this Protocol;

- (b) the Union shall inform the United Kingdom about planned Union acts within the scope of this Protocol, including those amending or replacing the Union acts listed in the Annexes to this Protocol;
- (c) the Union shall provide to the United Kingdom all information the Union considers relevant to allow the United Kingdom to fully comply with its obligations under the Protocol; and
- (d) the United Kingdom shall provide to the Union all information that Member States provide to one another or the Union institutions, bodies, offices or agencies pursuant to the Union acts listed in the Annexes to this Protocol.

- 13.4 The working group shall be co-chaired by the Union and the United Kingdom.
- 13.5 The working group shall meet at least once a month, unless otherwise decided by the Union and the United Kingdom by mutual consent. Where necessary, information referred to in points (c) and (d) of paragraph 3 can be exchanged between meetings.
- 13.6 The working group shall adopt its own rules of procedure by mutual consent.
- 13.7 The Union shall ensure that all views expressed and information (including technical and scientific data) provided by the United Kingdom in the working group are communicated to the relevant Union institutions, bodies, offices and agencies without undue delay.

#### **Article 14: Annexes**

- 14.1 Annexes 1 to 6 shall form an integral part of this Protocol.

## List of Annexes

1. Prohibitions on Customs Duties and Measures Having Equivalent Effect
2. Customs Facilitation Requirements and Procedures
  - 2.(a) Existing Simplifications and Facilitations
  - 2.(b) Security Measures
3. Level Playing Conditions
4. Ireland Border Measures
5. Mutual Recognition of Conformity Assessment
  - 5.(a) Measures relating to mutual recognition of conformity assessment
6. Animal health and zootechnical measures applicable to trade in live animals and animal products
  - 6.(a) Specific measures relating to animal health and zootechnical measures applicable to trade in live animals and animal products

## **Annex 1**

### **Prohibitions on Customs Duties and Measures Having Equivalent Effect**

#### **Article 1: Trade between the Parties to the Free Trade Area**

- 1.1 Customs duties on imports and exports of originating goods, and any charges having equivalent effect, shall be prohibited between the parts of the Free Trade Area. This prohibition shall also apply to customs duties of a fiscal nature.

Charges for the performance of customs controls or any other application of the customs legislation between the parts of the free trade area shall be considered having equivalent effect to customs duties. Charges may however be imposed, or costs recovered where specific services are rendered by the customs authorities, in particular the following:

- (a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;
  - (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken or information provided upon application;
  - (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
  - (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.
- 1.2 Articles III, V and Article XI of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") shall be incorporated into and be made part of this Protocol and shall apply between the parts of the free trade area *mutatis mutandis*.
- 1.3 The rules set out in this Annex shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, the protection of industrial or commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the parts of the free trade area.
- 1.4 Nothing in this Annex shall be construed:
- (a) to require the Parties to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests; or
  - (b) to prevent the Parties from taking any action which it considers necessary for the protection of its essential security interests:
    - (i) connected with the production of or trade in arms, munitions or war material or relating to such production of or trade in other goods and materials as is

carried out directly or indirectly for the purpose of provisioning a military establishment;

- (ii) relating to fissionable and fusionable materials or the materials from which they are derived; or
  - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent the Parties from taking any action for the purpose of maintaining international peace and security.

## **Article 2: Rules of Origin**

2.1 For the purposes of Article 1:

- (a) Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory; and
- (b) Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

2.2 The Parties commit to develop, maintain and implement common rules of origin based on the following principles:

- (a) the progressive liberalisation of the rules of origin and a preference for origin for manufactured or processed goods to be conferred by a simple change of customs classifications of the goods;
- (b) where applied on an exceptional basis, rules on local content requirement are to be reduced to the lowest level possible for local content for either Party;
- (c) for certain industrial sectors, including but not limited to, car and vehicle production and the aeronautical sector, the elimination of local content requirements; and
- (d) the application of triangulation rules and principles when conferring origin including the special procedures and reliefs referred to in Part VIII of Annex 2.

## **Annex 2**

### **Customs Facilitation Requirements and Procedures**

Confirming the contribution to the free flow of trade in goods resulting from carrying out customs, technical and similar checks away from border posts and through market surveillance operations and techniques;

Noting that the achievement of timely delivery and frictionless trade in agricultural goods is desirable for the security of supply of foodstuffs, including agri-food products, fresh produce and plants;

Acknowledging that information technology, both current and under development, increasingly provides effective solutions to the simplification and facilitation of cross-border trade between the Parties;

HAVE PARTIES HAVE AGREED AS FOLLOWS:

Definitions:

- (a) “advance ruling” means a written decision provided by a Party to an applicant prior to the importation of goods covered by the application that sets forth the treatment that the Party shall provide to the good at the time of import;
- (b) “Authorised Economic Operator” or “AEO” means an economic operator established in the territory of the European Union or the United Kingdom meeting the criteria for the grant of Authorised Economic Status applied by the Parties;
- (c) “customs duty” means a duty or charge of any kind imposed on or in connection with the importation of a good, including a form of surtax or surcharge imposed on or in connection with that importation;
- (d) “customs formalities” means any formality to which the authorities of a Party subject a trader and which consists in the production or examination of documents, certificates accompanying the goods, or other particulars, irrespective of the method or medium employed, relating to the goods or the means of transport;
- (e) “customs office” means the customs office of a Party competent for customs supervision at the place where the means of transport carrying the goods arrives in or departs the customs territory of one from the territory for the territory of the other Party;
- (f) “inspections” means any operation whereby the customs authorities or any other inspection authority of a Party carries out the physical examination or visual inspection of the means of transport or of the goods themselves in order to ascertain that their nature, origin, condition, quantity and value are in conformity with the corresponding declarations;
- (g) “measure” means any law, regulation, rule, procedure, decision, administrative action, requirement, practice or any other form of measure with legal effect adopted by a Party;

- (h) “release” means the conclusion or extinction of a customs clearance or inspection procedure permitting the goods to enter the territory of a Party for distribution, sale, marketing or any other commercial or industrial use without further customs formalities being applied for those purposes;
- (i) “risk” means the likelihood of an event occurring in connection with the entry, exit, transit, transfer and end-use of goods moving between the customs territories of the Parties which jeopardises the safety and security of the European Union, its Member States or the United Kingdom, public health, the environment or consumers;
- (j) “risk management” means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk including activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes;
- (k) “SPS” means sanitary and phytosanitary;
- (l) “UCC” means the Union Customs Code adopted by the European Union and any amending measures;

#### **PART I: OBJECTIVES AND SCOPE**

Article 1: Both Parties recognise the other Party’s sovereignty to develop their own future trade policy and to regulate the conditions for placing goods in their respective internal markets.

Article 2: Both Parties confirm their intention to work together as closely as possible to facilitate trade in goods between them based on the following considerations:

- (a) A mutual history and future of cooperation, friendship and good neighbourliness, as described in Article 8 of the Treaty on European Union as amended by the Treaty of Lisbon signed on 13<sup>th</sup> December 2007;
- (b) Regulatory harmonisation and mutual recognition with effect up to the day of departure of the United Kingdom from the European Union;
- (c) The intention to maintain and develop trade ties between them and a common legal basis for customs laws, regulations and systems;
- (d) The development and further exploitation of existing and future informational technology systems and infrastructure; and
- (e) The availability of specific trade facilitation measures for borders, being seaports connected by ferries, the Channel Tunnel and land borders.

Article 3: Import, export and transit requirements and procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve a legitimate objective and based on legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further trade

facilitation for economic operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities.

Article 4: The Parties recognise that legitimate public policy objectives, justified on grounds of public morality, public policy or public security, the protection of the health and life of humans, animals, plants or the environment, the protection of national treasures possessing artistic, historical or archaeological value, or the protection of industrial or commercial property, shall not be compromised in any way by the application of the provisions of this Annex .

Article 5: This Annex shall apply to goods moving within the Free Trade Area as defined in Article 3.1 of the Protocol.

## **PART II TRANSPARENCY**

Article 6: Each Party shall:

- (a) publish or otherwise make available, including through electronic means, its legislation, regulations, judicial decisions and administrative policies relating to requirements for the import or export of goods;
- (b) notify the other Party of any modification or changes in its laws, regulations or procedures for import into, export from or transit through its customs territory, as soon as possible;
- (c) publish or otherwise make available information on fees and charges imposed by the customs administration of that Party, including through electronic means. This information includes the applicable fees and charges, the specific reason for the fee or charge, the responsible authority, and when and how payment is to be made. A Party shall not impose new or amended fees and charges until it publishes or otherwise makes available this information; and
- (d) designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and make available on the internet information concerning the procedures for making such inquiries.

Article 7: Each Party shall use information technologies systems, software and solutions to:

- (a) expedite its procedures for the release of goods in order to facilitate trade including risk assessment and post-clearance audit methods, in order to simplify and facilitate the entry and the release of goods;
- (b) provide for accelerated release mechanisms and advance screening of formalities so that goods can be released quickly in the case of low-risk goods;
- (c) use electronic risk management systems for assessing and targeting high-risk goods or transactions while facilitating the automatic or expeditious release of low-risk goods or transactions taking into consideration the status

of the identity of the importer, consignor or consignee, the value, or any combination of data regarding the goods or transactions.

- (d) promote the progressive development and use of such systems to facilitate the electronic exchange of data between their respective traders, customs authorities and other related agencies; and
- (e) with the exception of risk assessment processes and procedures, permit such systems accessible to importers, exporters, shippers and persons engaged in the transit of goods or the designated representatives thereof, through its customs territory.

Article 8: Each Party shall ensure the following information is made available to the Public through the Internet, and shall update such information on a timely basis:

- (a) a description of its requirements and procedures for import into, export from or transit through its customs territory that informs interested parties of the practical steps they need to follow for import into, export from and transit through its customs territory;
- (b) the documentation and data it requires for import into, export from or transit through its customs territory;
- (c) non-binding guidance concerning its laws, regulations and procedures for import into, export from or transit through its customs territory; and
- (d) further trade related information, including relevant trade-related legislation regulations and procedures, such as those related to product standards and certification.

Article 9: Each Party shall develop to the extent possible and appropriate, bearing in mind the legislation of both Parties, fully interconnected single window systems to facilitate the electronic submission of information to enable importers, exporters, shippers and persons engaged in the transit of goods or designated representatives thereof to submit to all relevant government agencies such documentation and data required by that Party for the import into, export from or transit through its customs territory.

Article 10: Through their respective single window system each Party shall:

- (a) make available by electronic means any forms required for the import, export or transit through its customs territory of goods;
- (b) allow documentation and data for the import, export or transit through its customs territory of goods to be submitted in electronic format;
- (c) accept electronic copies of documents required for import into, export from or transit through its customs territory, unless the electronic copy does not provide the necessary information to insure compliance with its law;

- (d) establish a means of providing for the electronic exchange of trade-related information between the Party and importers, exporters, shippers and persons engaged in the transit of goods or the designated representatives thereof, through its customs territory.

Article 11: Where a Party receives documentation or data for a shipment of goods or a transaction through its single window, that Party shall not otherwise request the same documentation or data for that good or shipment of goods, except in urgent circumstances or pursuant to other limited exceptions set out in its laws, regulations or procedures.

Article 12: Each Party shall adopt or maintain electronic payment systems for the purposes of settlement of administrative charges and costs, if any, on the cross-border movement of goods levied by their respective customs authorities.

### **PART III: CUSTOMS COOPERATION AND ORIGIN**

Article 13: Both Parties will promote trade facilitation, cooperate regarding customs formalities and obligations and ensure effective customs controls based on the common legal principles and measures found in the Union Customs Code and equivalent UK legislation as each exists from time to time pertaining to cross-border trade and taxation.

Article 14: Unless otherwise agreed, the Parties agree that their respective customs provisions and procedures including the use of electronic information technology pursuant to Article 7 and the development of data requirements pursuant to Article 9, shall be based upon international instruments and standards applicable in the area of customs and trade, which the respective Parties have accepted, including the substantive elements of the Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the WCO International Convention on the Harmonized Commodity Description and Coding System, and the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as “SAFE Framework”), the WCO Data Model and related WCO recommendations, the WTO Agreement on Trade Facilitation and the WTO Agreement on Sanitary and Phytosanitary Measures.

Article 15: The Parties will continue to rely on and develop existing legal, IT and physical infrastructure including, but not limited to:

- (a) Existing International Conventions relating to goods in transit including the Common Transit Convention;
- (b) Le Touquet Agreement; and
- (c) Security arrangements regarding persons and goods crossing the borders.

Article 16: The Parties agree that additional cooperation in customs clearance and control procedures will be based on both Parties’ continued use of existing IT systems, in each instance as updated or replaced from time to time, such as:

- (a) VIES (Value Added Tax Exchange System);
- (b) EORI (Economic Operators Registration and Identification number system);
- (c) The Trade Control and Expert System (TRACES);
- (d) EMCS (Excise Movement and Control System);
- (e) REX (Registered Exporter System); and
- (f) NCTS (New Computerised Transit System).

In the event of these systems being changed by the European Union in a way which causes difficulty for the United Kingdom's continued operation of those systems or other unforeseen circumstances which cause difficulties to either Party, the Parties shall seek to agree appropriate revisions and modes of operation with the aim of maintaining or improving customs facilitation.

Article 17: To establish and prove the origin of goods originating from the territory of either Party, the Parties commit to invest in the further development of the REX system, to promote its use and implement this system before the commencement of this Agreement.

Article 18: The Parties agree that they will endeavour to negotiate the same rules of origin to the extent possible with third Parties so that they can cumulate origin for the purpose of the UK-EU supply chain.

#### **PART IV: CUSTOMS CLEARANCE PROCEDURES AND THE RELEASE OF GOODS**

Article 19: Each Party shall establish, maintain and apply simplified import and export procedures for cross-border trade between the Parties that are transparent and efficient for the release of goods that are eligible for release upon completion of such procedures, in order to reduce costs and increase predictability for economic operators, including for small and medium sized enterprises.

Article 20: Each Party shall endeavour to adopt, and encourage greater use of, procedures that provide for:

- (a) the electronic submission of documentation and data required for importation, including manifests and conveyance information, prior to the arrival of the goods; and
- (b) beginning processing such submission prior to the arrival of the goods with a view to enabling the release of goods on their arrival.

Article 21: Each Party shall ensure that these simplified procedures:

- (a) allow for the prompt release of goods within a period no greater than required to ensure compliance with its laws, regulations and procedures and to the extent possible, before or at the moment of the entry of the goods' arrival at the first customs office of point of arrival, provided that the goods are otherwise eligible for release;

- (b) allow the importer of record, its agent or declarant to be promptly informed of the decision regarding the release of the goods, circumstances which justify the delay in the release of the goods and grounds for delaying the release of the goods; and
- (c) permit an importer of record, its agent or declarant to remove goods from customs' control prior to the final determination and payment of customs duties, taxes, and fees. Before releasing the goods, a Party may require that an importer provide sufficient guarantees in the form of a surety, a deposit, or some other appropriate instrument.

Article 22: Each Party shall adopt or maintain special customs procedures for the expedited release of low risk shipments while maintaining appropriate customs control in accordance with the UCC and corresponding United Kingdom legislation.

Article 23: Both Parties shall ensure that:

- (a) all fees and charges of whatever character imposed on or in connection with customs formalities shall be limited in amount to the approximate cost of services rendered, which shall not be calculated or applied on an ad valorem basis and shall not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.
- (b) fees and charges for customs processing shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question and shall not be calculated or applied on an ad valorem basis, but are not required to be linked to a specific import or export operation, provided they are levied for services that are closely connected to the customs processing of goods.
- (c) there is a periodical review of fees and charges imposed on or in connection with, importation to ensure compliance with this Article.

Article 24: Each Party shall:

- (a) issue, upon written request, advance rulings on tariff classification and origin determination relating to the importation of goods in accordance with its law; and
- (b) endeavour to agree on a means or system for the mutual recognition of customs classification and origin rulings of each other.

Article 25: Each Party shall ensure that:

- (a) a written advance ruling to an applicant that has submitted a written request or application containing all necessary information within a reasonable period of time, will be issued by a Party after a reasonable period from the receipt of all necessary information;

- (b) an advance ruling shall take effect on the date issued or on another date specified in the ruling and shall remain in effect until it is modified or revoked;
- (c) an advance ruling issued by a Party shall be binding throughout its customs territory until such time it is modified, revoked, invalidated or annulled;
- (d) upon written request of an applicant, an administrative review of the advance ruling or of the decision to revoke, modify, invalidate or annul it shall be carried out.

Article 26: Each Party shall:

- (a) use a risk management system for customs and other relevant border controls rather than requiring each shipment offered for entry or exit to be examined in a comprehensive manner for compliance with customs regulations and procedures;
- (b) adopt and apply its import, export and transit requirements and procedures for goods on the basis of risk management to enable its customs authority to focus on transactions that merit attention and concentrate its controls, inspection and other enforcement activities on high-risk consignments while simplifying and facilitating the clearance and movement of low-risk consignments;
- (c) design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination or disguised restrictions on international trade;
- (d) use information technology systems, as appropriate, to apply its risk management system in order to facilitate trade while ensuring customs control; and
- (e) select, on a random basis, consignments for such controls as part of its risk management.

Article 27: Based on data available to the Parties' customs agencies, the Parties agree to conduct risk assessments processes in such a way that low risk shipments are substantially less inspected thereby allowing the parties customs agencies to direct their fullest attention to the inspection of high-risk consignments. Risk assessment processes may be validated or improved by random checks to evaluate the profiles that have been generated as the result of the risk assessment processes.

Article 28: Both Parties acknowledge that administrative documentation in many cases provides sufficient information to assess a declaration, and should be used in preference to a physical inspection of goods. In addition, post-clearance audits procedures on compliance are an effective and efficient way of risk management. The Parties agree that they must be an integral part of customs' control operations. The Parties agree that audits shall be conducted in a transparent way.

Article 29: Where goods presented for import are rejected by the competent authority of a Party on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Party shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter. If these options are not exercised by the exporter, the goods may be destroyed by the competent authorities of the Parties.

Article 30: The Parties acknowledge that simplified procedures for these purposes are available within the Union Customs Code as set out in the illustrative list set out in the pertinent Annex.

#### **PART V: GOODS IN TRANSIT BETWEEN THE TERRITORIES OF THE PARTIES**

Article 31: The Parties acknowledge that the individual Member States of the European Union, in their own right and capacity, and the United Kingdom, are contracting parties to Conventions relating to goods in transit and recognise that traffic in transit between their respective territories should be afforded special treatment and facilitation.

Article 32: Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

Article 33: The Parties agree that transit declarations can be opened and closed, and goods can be physically inspected at:

- (a) inland customs offices;
- (b) the premises of the exporter or importer being an authorised consignor or consignee;
- (c) the premises of a logistical service provider who is involved in the transport being an authorised consignor or consignee.

Article 34: The Parties agree that permissions to open a transit declaration for the responsible economic operator who holds the liability for taxes and other obligations, will be issued on the existing basis of providing a guarantee for the liabilities or based on the solvency and creditworthiness of the permit holder.

Article 35: The Parties shall ensure that permissions for a transit consignor or consignee will be granted preferential consideration to ensure that they are easily available for traders and their service providers so transit can be conducted in an efficient manner.

#### **PART VI: INLAND CLEARANCE PROCEDURES**

Article 36: To facilitate inland clearance, both Parties will participate in the NCTS.

Article 37: Both Parties acknowledge that there will be a need from a perspective of legal, IT and physical infrastructure, to adapt the present customs clearance procedures and systems in relevant European Union Member States with intensive (direct) trade with the United Kingdom.

Article 38: Both Parties agree that customs formalities and inspections should, to the extent possible, be dealt with away from border crossing points.

Article 39: Both Parties agree to facilitate customs offices at ferry ports for those shipments that cannot be declared inland.

Article 40: The United Kingdom and each European Union Member State with which it shares a land border or common ferry transportation services, or the Channel Tunnel connection shall cooperate to facilitate inland clearance procedures to the fullest extent possible.

## **PART VII: CUSTOMS SIMPLIFICATION PROCEDURES**

Article 41: Both Parties acknowledge that within their respective customs legislation, there are multiple existing simplifications to facilitate trade. Both Parties will use these simplifications to the fullest extent possible to facilitate trade as set out in Annex 2.(a) of this Annex (Existing Simplifications and Facilitations).

Article 42: Simplifications already provided in the UCC, have been mirrored in United Kingdom legislation and both Parties seek to achieve maximum trade facilitation based on mutual trust in each other's competent customs authorities.

Article 43: Both Parties seek to use customs simplification schemes on a system-based approach. Legitimate traders with repeat trade ("trusted traders") will be required to fulfil only a minimum of formalities whereby inspections and controls can be based on administrative systems.

Article 44: The Parties agree that customs procedure simplification authorisations will be made available directly through permissions granted to registered traders, or by intermediaries that can provide these simplifications to their clients based on a general authorisation by either Party.

Article 45: The Parties agree that customs procedure simplifications authorisations should be granted to trusted traders but may only be issued when compliance with regulatory measures is not endangered. Any trader or service provider that can assure the compliance requirements should be eligible for simplifications.

Article 46: The Parties agree that the system-based approach, in which declarations are based on data available in administrations of actors, rather than on specific declarations, should be made available not only to large operators, but also through intermediaries and for Small and Medium Enterprises, if the same requirements and standards can be met.

Article 47: Both Parties will adapt existing IT-systems customs procedures to facilitate further simplifications for goods imported from the other.

## **PART VIII: SPECIFIC FACILITATIONS AND RELIEFS**

- Article 48: Both Parties may grant the status of Authorised Economic Operator (AEO) on the basis of the conditions and requirements to be established and agreed to any enterprise established in its customs territory able to meet the relevant conditions and requirements.
- Article 49: The status of Authorised Economic Operator granted by one Party shall be recognised by the other Party without further conditions being imposed by the other Party.
- Article 50: Authorised economic operators shall enjoy facilitations in respect of customs clearance procedures, inspections, checks and security-related customs controls in cross-border trade between the Parties without prejudice to random customs inspections, particularly with a view to implementing agreements with third countries providing for arrangements for the mutual recognition of the status of authorised economic operator.
- Article 51: The Parties shall adopt or maintain trusted trader self-assessment programmes, where the trader is able to conduct its own trade compliance and self-report on an annual basis. The criteria for trusted traders under these programmes are to be developed and agreed by the Parties.
- Article 52: Each Party shall provide for the release of perishable goods under normal circumstances within the shortest possible time and give appropriate priority to perishable goods when scheduling any examinations that may be required.
- Article 53: In addition to the commitments undertaken in Article 19, each Party shall promote and encourage, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be reimported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations. Parties shall ensure that Inward Processing and Outward Processing Relief shall be made as easy as possible for users, and shall provide special mechanisms to promote frictionless trade for certain industrial sectors.
- Article 54: A Party shall not apply customs duty to goods, regardless of their origin, that re-enter its customs territory after those goods have been temporarily exported from its customs territory to the customs territory of the other Party for repair, regardless of whether the repair could be performed in the customs territory of the Party from which the goods were exported for repair.

## **PART IX: REGULATORY COHERENCE AND RECOGNITION**

Article 55: The Parties will endeavour to agree recognition of regulations and standards on specific products as meeting the applicable requirements in their respective territories as further set out in Annex 5 of this Protocol.

Article 56: Tests for compliance with regulations and standards may be carried out and certificates may be issued by either Party's government organisations or by an organisation authorised or licensed by the government to do so.

Article 57: Each Party shall recognise duly authorised conformity assessment bodies established in the territory of the other as competent to assess conformity with specific technical regulations.

## **PART X: VETERINARY, SANITARY AND PHYTOSANITARY MEASURES**

Article 58: The Parties recognise and acknowledge that they each have the sovereignty to establish and operate their own veterinary and SPS measures.

Article 59: The Parties will endeavour to agree recognition of regulations and standards in respect of SPS measures as meeting the applicable requirements in their respective territories.

Article 60: Tests for compliance with SPS measures may be carried out and certificates may be issued by either Party's government organisations or by an organisation or individual authorised or licensed by the government to do so.

Article 61: Each Party shall recognise duly authorised bodies or individuals established in the territory of the other as competent to assess conformity with veterinary and SPS standards and regulations.

Article 62: Each Party shall communicate in a timely manner through the Joint Committee any changes to SPS regulations.

Article 63: The Parties agree that inspections on veterinary and SPS regulations shall be done at the premises of the exporter, importer, or at official border inspection facilities, located in the vicinity of the point of entry into the territory of the other Party.

Article 64: The United Kingdom will remain part of the TRACES system and fulfil all required obligations and will seek to use the TRACES system also for its imports of veterinary, SPS and biological goods.

Article 65: All trade and transport of veterinary and SPS goods must be registered and monitored by the existing TRACES system

Article 66: The Parties agree to increase the intensity of in-facility veterinary checks to ensure that the threat of animal diseases can be properly mitigated and apply an approach that it is better to increase in-facility inspections than to rely on checks at ports.

## **PART XI: CUSTOMS SECURITY MEASURES FOR GOODS FROM THIRD COUNTRIES**

Article 67: The Parties:

- (a) undertake to set up and apply to the import and export of goods to and from third countries the customs security measures set out in Annex 2(b) of this Annex (Security Measures) and thus to ensure an equivalent level of security at their external borders;
- (b) shall refrain from applying the customs security measures set out in this Chapter to the transit of such goods between their customs territories; and
- (c) shall consult prior to the conclusion of any agreement with a third country in the areas covered by this Chapter in order to ensure consistency with this Annex, particularly if the proposed agreement includes provisions that derogate from the customs security measures set out in this Chapter.

Article 68: The Parties shall apply the following measures to declarations prior to the entry and exit of goods from third countries:

- (a) Goods brought into the customs territories of the Parties from third countries shall be covered by an entry declaration for the purposes of security with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.
- (b) Goods exiting the customs territories of the Parties that are destined for third countries shall be covered by an exit declaration for the purposes of security with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within that territory.
- (c) The entry or exit summary declaration shall be lodged before the goods are brought into or leave the customs territory of the Party.
- (d) Each Party shall specify the persons who are required to lodge such entry or exit summary declarations and the authorities competent to receive them.
- (e) A customs declaration may be used as an entry or exit summary declaration as long as it meets the conditions laid down for that summary declaration.

Article 69: The Parties shall apply the following principles to Customs Security Controls and Security-Related Risk Management

- (a) Security-related controls other than random checks shall be based on computerised risk analysis.
- (b) Each Party shall establish for this purpose a risk management framework, risk criteria and priority areas for security-related customs controls.

- (c) The Parties shall recognise the equivalence of their security-related risk management systems.

Article 70: The Parties shall apply the following actions for the purposes of Monitoring the Implementation of External Customs Security Measures

- (a) The Joint Committee shall determine how the Parties are to monitor the implementation of this Chapter and to verify compliance with its provisions.
- (b) The monitoring referred to in Paragraph (a) may take the form of:
  - (i) regular assessments of the implementation of this Chapter, and in particular of the equivalence of customs security measures,
  - (ii) a review to improve the way in which it is applied or to amend its provisions so that it better fulfils its objectives, and/or
  - (iii) the organisation of thematic meetings between experts of both Parties and audits of administrative procedures, including on-the-spot visits.
- (c) The Joint Committee shall ensure that measures taken under this Article uphold the rights of economic operators.

Article 71: Rebalancing Measures

- 1 A Party may, after consultations within the Joint Committee, take appropriate rebalancing measures, including suspension of this Chapter of this Annex, if it finds that the other Party does not adhere to its conditions or if the equivalence of the other Party's customs security measures is no longer assured.
- 2 Where any delay could jeopardise the effectiveness of customs security measures, provisional protective measures may be taken, without prior consultation, provided that consultations are held immediately after their adoption.
- 3 The scope and duration of such measures shall be limited to what is necessary in order to remedy the situation and to secure a fair balance of rights and obligations under this Annex.
- 4 A Party may ask the Joint Committee to hold consultations about the proportionality of these measures and, where appropriate, decide to submit a dispute on the matter to arbitration in accordance with procedures to be agreed by the Joint Committee.

Article 72: The Parties agree that agreements concluded by either of them with a third country in an area covered by this Part shall not create obligations for the other Party, unless the Joint Committee decides otherwise.

## **PART XII: REVIEW, APPEAL AND PENALTIES**

### Article 73: Review and Appeals

1. Each Party shall ensure that an administrative action or official decision taken in respect of the import of goods is reviewable promptly by judicial, arbitral, or administrative tribunals or through administrative procedures.
2. The tribunal or official acting pursuant to those administrative procedures shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination in accordance with the Party's law.
3. Before requiring a person to seek redress at a more formal or judicial level, each Party shall provide for an administrative level of appeal or review that is independent of the official or the office responsible for the original action or decision.

Article 74: Both Parties shall ensure that its customs law provides that penalties imposed for breaches to it be proportionate and non-discriminatory and that the application of these penalties does not result in unwarranted delays to the customs clearance of the goods.

### Article 75: Administrative Assistance

1. In order to ensure the smooth functioning of trade between the Parties and to facilitate the detection of any irregularity or infringement, the customs authorities of the countries concerned shall, upon request, or, where they consider that this would be in the interests of the other Party, on their own initiative, provide each other with all available information (including administrative findings and reports) of interest for the proper implementation of this Chapter.
2. Assistance may be withheld or denied, totally or partly, when the requested Party considers that the assistance would be prejudicial to its security, public policy or other essential interests, or would violate an industrial, commercial or professional secret.
3. If assistance is withheld or denied, the decision and the reasons therefor must be notified to the requesting country without delay.

Article 76: Both Parties agree that official decisions and determinations of the other Party will be mutually recognised for the purposes of carrying out reviews and appeals in this Chapter.

## **PART XIII: ADMINISTRATIVE BODIES**

### Article 77: Joint Customs Cooperation Committee

1. A Joint Customs Cooperation Committee (the “Joint Customs Committee”) is hereby established to ensure the proper functioning of this Annex on which the Parties shall be represented.
2. The Joint Customs Committee shall act by mutual agreement and on the basis of rules of procedure which it shall adopt by way of a decision.
3. The Joint Customs Committee shall meet as regularly as required by the Parties. Either Party may request that a meeting be convened.
4. The Joint Customs Committee shall establish its own rules of procedure which shall contain, inter alia, provisions on the convening of meetings, the appointment of the chairperson and the chair-person’s term of office.

#### Article 78: Representatives on the Joint Customs Committee

1. For matters covered by this Annex, the Joint Customs Committee shall comprise representatives of the customs, trade, or other competent authorities as each Party deems appropriate.
2. Each Party shall ensure that its representatives in Joint Customs Committee meetings have an expertise that corresponds to the agenda items. The Joint Customs Committee may meet in a specific configuration of expertise to deal with issues arising from the application and implementation of this Annex.

#### Article 79: Powers of the Joint Customs Committee

1. It shall be the responsibility of the Joint Customs Committee to administer this Annex and ensure its proper implementation through the exercise of the powers conferred upon it.
2. The Joint Customs Committee may formulate and adopt resolutions, recommendations or opinions and take formal decisions that it considers necessary for the attainment of the common objectives and sound functioning of the mechanisms established in this Annex. Formal decisions will be adopted in writing and published accordingly in order to give guidance to economic operators established in the territories of both Parties.
3. The Joint Customs Committee will ensure that there is continued cooperation between the EU member states customs agencies and the customs agency of the United Kingdom so that future agreements on all aspects of customs administration can be developed.
4. Exercising its powers to adopt decisions, the Joint Customs Committee may amend this Annex and, through the same process, also adopt implementing measures of a technical and administrative nature with a view to reducing inspections and formalities.
5. The Joint Customs Committee may decide to set up any subcommittee or working party to facilitate its work, including a regulatory cooperation committee for customs issues, for the purposes of:

- (a) cooperating and consulting regularly to ensure the effective and uniform implementation and administration of this Annex;
  - (b) discussing any proposed modifications to any provision of the Annex; and
  - (c) considering any matters or problems arising in matters covered by this Annex.
6. Decisions shall be implemented by the Parties in accordance with their own laws, regulations and rules.
7. For the purposes of the proper implementation of this Annex, the Joint Customs Committee shall be informed at regular intervals by the Parties of experience gained in its implementation and those Parties shall, at the request of any one of them, consult one another within the Joint Customs Committee.

## **Annex 2(a)**

### **Existing Simplifications and Facilitations**

The list in this Annex provides a number of currently existing and commonly used legal customs simplifications, which can be used to ensure almost frictionless movement of goods across customs borders. The list is not complete.

Most of these simplifications require combinations of various authorisations and possibly require specific (Union) IT systems. Not all simplifications are suitable for every situation or every case, although they can be accessible by using service providers. The choice for (combination) of options depends on (a combination of) aspects such as volume, complexity, risk, type of goods, transport mode.

All declarations are done digitally.

1. Simplified transit procedure where goods do not need to be presented at a customs office but at the premises of an authorised consignor or consignee.
2. Goods can be presented at private storage facilities once or permanently approved or designated by customs authorities for customs controls.
3. Service providers can have multiple loading and unloading locations approved.
4. Declarations can have a full or a simplified dataset.
5. Declarations can be submitted prior to arrival.
6. Enhancement of specific declaration data at later time.
7. Waivers for presentation of goods.
8. Full or partial automation of declarations for repetitive shipments.
9. Centralised management of clearances.

10. Notification of AEO certified companies of a selected control on imports prior to arrival.
11. Entry into The Declarant Record (EIDR), whereby a declaration per shipment is replaced by a fully automated monthly declaration.
12. Integration of declarations in supply chain IT-systems.
13. Where sealing is required to ensure the identification of goods, seals of special types can be used.
14. For rail, sea and air, Transit documents can be replaced by other transport documents that contain the same information as long as the relevant data are provided to the Transit system.
15. Temporary and permanent storage under customs control can be done in many ways.
16. Inward and outward processing relief to prevent paying unnecessary duties
17. Registered Exporter can declare the origin of goods with a simple declaration on the export invoice.

#### **Annex 2(b)**

#### **Security Measures**

[Relevant measures to be inserted]

## **Annex 3**

### **Level Playing Conditions**

#### **Part 1 Taxation**

Article 1: The Union and the United Kingdom recognise and commit themselves to implementing the principles of good governance in the area of taxation, including the global standards on transparency and exchange of information, fair taxation, and the OECD standards against Base Erosion and Profit Shifting (BEPS). The Union and the United Kingdom will promote good governance in tax matters, improve international cooperation in the tax area and facilitate the collection of tax revenues.

#### **Part 2 Labour Standards**

Article 2: The Parties recognize the right of each other to set its labour priorities, to establish its levels of labour protection and to adopt or modify its laws and policies accordingly in a manner consistent with its international labour commitments and each Party shall seek to ensure those laws and policies provide for and encourage high levels of labour protection and shall strive to continue to improve such laws and policies with the goal of providing high levels of labour protection.

Article 3: Each Party shall ensure that its labour law and practices embody and provide protection for the fundamental principles and rights at work which are listed below:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

Article 4: Each Party shall ensure that its labour law and practices promote the following objectives:

- (a) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness;
- (b) establishment of acceptable minimum employment standards for wage earners, including those not covered by a collective agreement; and,
- (c) non-discrimination in respect of working conditions, including for migrant workers.

Article 5: Pursuant to Article 4(a), each Party shall ensure that its labour law and practices embody and provide protection for working conditions that respect the health and safety of workers, including by formulating policies that promote basic principles aimed at preventing accidents and injuries that arise out of or in the course of work,

and that are aimed at developing a preventative safety and health culture where the principle of prevention is accorded the highest priority. When preparing and implementing measures aimed at health protection and safety at work, each Party shall take into account existing relevant scientific and technical information and related international standards, guidelines or recommendations, if the measures may affect trade or investment between the Parties.

Article 6: Each Party reaffirms its commitment to effectively implement in its law and practices in its whole territory the fundamental ILO Conventions that either party has ratified respectively. The Parties shall exchange information on their respective situations and advances regarding such other ILO Conventions that may be appropriate.

Article 7: The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the levels of protection afforded in their labour law and standards and neither Party shall:

- (a) waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour law and standards, to encourage trade or investment in its territory; or
- (b) through a sustained or recurring course of action or inaction, fail to effectively enforce its labour law and standards to encourage trade or investment in its territory.

Article 8: Pursuant to Article 5 of this Annex, each Party shall promote compliance with and shall effectively enforce its labour law, including by:

- (a) maintaining a system of labour inspection in accordance with its international commitments aimed at securing the enforcement of legal provisions relating to working conditions and the protection of workers which are enforceable by labour inspectors; and
- (b) ensuring that administrative and judicial proceedings are available to persons with a legally recognised interest in a particular matter who maintain that a right is infringed under its law, in order to permit effective action against infringements of its labour law, including appropriate remedies for violations of such law.

Article 9: Each Party shall, in accordance with its law, ensure that the proceedings referred to in Article 9(b) are not unnecessarily complicated or prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief, if appropriate, and are fair and equitable, including by:

- (a) providing defendants with reasonable notice when a procedure is initiated, including description of the nature of the proceeding and the basis of the claim;

- (b) providing the parties to the proceedings with a reasonable opportunity to support or defend their respective positions, including by presenting information or evidence, prior to a final decision;
- (c) providing that final decisions are made in writing and give reasons as appropriate to the case and based on information or evidence in respect of which the parties to the proceeding were offered the opportunity to be heard; and
- (d) allowing the parties to administrative proceedings an opportunity for review and, if warranted, correction of final administrative decisions within a reasonable period of time by a tribunal established by law, with appropriate guarantees of tribunal independence and impartiality.

### **Part 3 Environmental Standards**

Article 10: The Parties recognise each other's right to set its environmental priorities, to establish its levels of environmental protection and to adopt or modify its laws and policies accordingly in a manner consistent with the multilateral environmental agreements to which it is party. Each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental protection as our consistent with internationally agreed best practice.

Article 11: Each Party reaffirms its commitment to effectively implement in its law and practices, in its whole territory, the multilateral environmental agreements to which it is party.

Article 12: The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and stress the need to enhance the mutual supportiveness between trade and environment policies, rules, and measures. In this context, the Parties shall exchange views and information on trade-related environmental matters of mutual interest in the meetings of the Committee on Trade and Sustainable Development, and as appropriate in other fora.

Article 13: Each Party shall take the necessary measures to meet their respective commitments to international agreements to address climate change, including those which implement the United Nations Framework Conventions on Climate Change, such as the Paris Agreement of 2015.

Article 14: The Parties commit to consult and cooperate as appropriate with respect to environmental issues of mutual interest related to multilateral environmental agreements, and in particular, trade-related issues. This commitment includes exchanging information on:

- (a) the implementation of multilateral environmental agreements, to which a Party is party;
- (b) on-going negotiations of new multilateral environmental agreements where appropriate; and

- (c) each Party's respective views on becoming a party to additional multilateral environmental agreements, where appropriate.

Article 15: The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the levels of protection afforded in their environmental law and agree neither Party shall:

- (a) waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental law, to encourage trade or investment.
- (b) through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental law to encourage trade or investment.

Article 16: Nothing in this Part prevents a Party from adopting or maintaining measures to implement the multilateral environmental agreements to which it is party, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination against the other Party or a disguised restriction on trade.

#### **Part 4 State Aid**

Article 17: Period of Application

1. The Parties will apply the principles, rules and measures relating to state aid set out in this Part until the expiry of the transition period. After the expiry of the transition period, the United Kingdom will be free to adopt, develop and implement its own independent state aid policy and enforcement measures in accordance with the general principles laid down in this Part, and having appropriate regard to the decisions of the Court of Justice of the European Union, in accordance with its own legislation and regulations and as applied by the courts and tribunals of the United Kingdom.

Article 18: State Aid Rules

1. Until the expiry of the transitional period, the Union State aid law, in respect of measures which affect that trade between the parts of the Free Trade Area defined in Article 3 of this Protocol. However, in respect of such measures of the United Kingdom authorities, references to the European Commission in those Union law provisions shall be read as referring to the independent authority referred to in Article 19.
2. Notwithstanding paragraph 1, the provisions of Union law referred to in that paragraph shall not apply with respect to measures of the United Kingdom authorities supporting the production of and trade in agricultural products in the United Kingdom customs territory up to a determined maximum overall annual level of support, and provided that a determined minimum percentage of that exempted support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture. The United Kingdom shall have the right to set its own levels of Aggregate Measure of Support (AMS) independently of the Union.

#### Article 19: Independent Authority

1. The United Kingdom shall establish or maintain an operationally independent authority ("the Independent Authority"). In performing its duties and exercising its powers, the independent authority shall have the necessary guarantees of independence from political or other external influence and shall act impartially.
2. The independent authority shall have powers and functions equivalent to those of the European Commission acting under the Union State aid law and shall be appropriately equipped with the resources necessary for the full application and the effective enforcement of the Union State aid law. These resources include human, technical and financial resources, premises and infrastructure.
3. Decisions of the Independent Authority shall produce in respect of and in the United Kingdom equivalent legal effects as those which comparable decisions of the European Commission acting under the Union State aid law produce within the Union and its Member States.

#### Article 20: Cooperation

1. With a view to ensuring consistent surveillance in the field of State aid throughout the free trade area, the European Commission and the Independent Authority shall cooperate.
2. The European Commission and the independent authority shall:
  - (a) exchange information and views on the implementation, application and interpretation of the Union State aid law, and
  - (b) provide on a case-by-case basis information and exchange views on individual State aid cases which affect that trade between the parts of the Free Trade Area. The European Commission and the Independent Authority shall exchange this information taking into account the limitations imposed by the requirements of professional and business secrecy.
3. If the Independent Authority or the European Commission, whichever is the case, decides to open the procedure referred to in the first and second subparagraphs of Article 108(2) of the TFEU, the Independent Authority or the European Commission shall communicate that decision to the other party and give it the opportunity to submit its comments in accordance with the applicable time limits in Regulation (EU) 2015/1589.
4. The Independent Authority and the European Commission shall consult each other on all draft decisions it intends to adopt. The Independent Authority or the European Commission, whichever is the case, shall have up to 3 months to communicate its opinion, and the other party shall take account of that opinion

before adopting the decision. In cases of urgency, one party may invite the other to communicate its opinion as soon as possible.

Where the Independent Authority or the European Commission considers, during the period referred to in the first subparagraph, that it requires further information before it can formulate its opinion, it may address a request for additional information to the other party.

Nothing shall prevent the European Commission or the Independent Authority from rendering decisions that it thinks are appropriate.

#### Article 21: Courts and tribunals of the United Kingdom

1. The courts of the United Kingdom shall be competent to:
  - (a) review and enforce compliance by the United Kingdom's authorities UK State Aid law and not to put a proposed measure in effect until the independent authority has authorised it;
  - (b) review and enforce compliance with a decision of the independent authority by the United Kingdom's authorities, and impose penalties in case of non-compliance;
  - (c) decide on actions for a failure of the independent authority to act, and order the independent authority to act; and
  - (d) decide on actions for private damages and award such damages.
2. The Independent Authority, the European Commission and interested parties shall have legal standing before courts or tribunals in the United Kingdom or the Union to bring such cases.

The term "interested parties" in the first subparagraph shall have the same meaning as it does under Union State aid law provisions.

#### Article 22: Transparency

The United Kingdom shall maintain a system of transparency of aid granted for individual State aid grants above EUR 500 000.

#### Article 23: Interim measures

1. Each Party shall be entitled, after giving notice to the other Party, to take appropriate remedial measures including trade sanctions where one Party considers that the other Party has failed to comply with its obligations under this Annex provided that a Party considers that the other Party's failure to comply threatens to undermine the equal conditions of competition between the parts of the Free Trade Area;
2. In the case referred to paragraph 1, the appropriate remedial measures taken by the complainant Party may take effect at the earliest 30 days after it has given the Other Party notice.

3. The appropriate remedial measures taken by the aggrieved Party shall cease to apply when:
  - (a) the Party is satisfied that the risk to the equal conditions of competition between the parts of the free trade area has been remedied; or
  - (b) in cases submitted to arbitration in accordance with Article 170 of the Withdrawal Agreement, the arbitration panel has decided that the defendant Party has not failed to comply with its obligations.

#### Article 24: Coordination

1. The exercise of its powers by the Independent Authority in respect of measures of the United Kingdom authorities is without prejudice to the European Commission's powers and in particular:
  - (a) a decision by the independent authority shall not give rise to legitimate expectations under Union law as regards the application of this Part of the Protocol;
  - (b) where the European Commission, acting under this Part of the Protocol, and the independent authority, acting under this Part, take decisions concerning the same measure of the United Kingdom authorities, the decision of the independent authority is without prejudice to the legal effects in the United Kingdom of the decision of the European Commission.

#### Article 25: Exclusion for the Defence of the Security Interests of the United Kingdom

1. The rules and procedures set out in this Part shall not be applicable to enterprises established and operating in the United Kingdom in their capacity as contractors for equipment used in the defence of the security interests of the United Kingdom.

### **Part Five Competition Rules**

#### Article 26: Period of Application

1. The Parties will apply the principles, rules and measures relating to competition policy and regulation as set out in this Part until the expiry of the transition period. After the expiry of the transition period, the United Kingdom will be free to adopt, develop and implement its own independent state aid policy and enforcement measures in accordance with the general principles laid down in this Part, in accordance with its own legislation and regulations and as applied by the courts and tribunals of the United Kingdom.

#### Article 27: Principles

1. The Union and the United Kingdom recognise the importance of free and undistorted competition in their trade and investment relations. The Union and the United Kingdom acknowledge that anti-competitive business practices, concentrations of undertakings

and State interventions have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

2. This Part is without prejudice to the specific provisions applicable in the Union to agricultural products in accordance with Article 42 of the TFEU, and equivalent laws, regulations and practices applicable in the United Kingdom.
3. With regard to state interventions and rule-making, the Parties will respect and make best use of the OECD Competition Assessment Toolkit.

#### Article 28: Agreements between undertakings

1. The following shall be prohibited in so far as they may affect trade between the Union and the United Kingdom: all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which:
  - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
  - (b) limit or control production, markets, technical development or investment;
  - (c) share markets or sources of supply;
  - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
  - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
2. Any agreements or decisions prohibited pursuant to this Article shall automatically be void.
3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
  - any agreement or category of agreements between undertakings,
  - any decision or category of decisions by associations of undertakings,
  - any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, which allows consumers a fair share of the resulting benefit, and which does not:
    - (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
    - (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

#### Article 29: Abuse of a dominant position

1. Any abuse by an undertaking of a dominant position in the territories of the Union and the United Kingdom as a whole or in a substantial part thereof shall be prohibited, in so far as it may affect trade between the Union and the United Kingdom.
2. Such abuse may, in particular, consist in:
  - (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
  - (b) limiting production, markets or technical development to the prejudice of consumers;
  - (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
  - (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

#### Article 30: Concentrations of undertakings

Concentrations between undertakings which are notifiable to the Union or United Kingdom and which threaten to significantly impede or to substantially lessen effective competition, in particular as a result of the creation or strengthening of a dominant position, shall be declared incompatible, in so far as they have an effect on the Union or United Kingdom markets respectively and can be shown to substantially lessen competition in a relevant product or geographic market, unless remedies are offered to address adequately the identified competition concerns.

#### Article 31: Public undertakings, undertakings granted special or exclusive rights or privileges, and designated monopolies

1. In the case of public undertakings and undertakings to which the Member States or the United Kingdom grant special or exclusive rights, the Union and the United Kingdom shall ensure that there are neither enacted nor maintained in force any measures contrary to the rules contained in Articles 28 to 30.
2. Undertakings entrusted with the operation of services of general economic interest or having the character of revenue-producing monopoly shall be subject to the rules contained in Articles 28 to 30, in so far as the application of those rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union and the United Kingdom.

#### Article 32: Implementation

1. The Union and the United Kingdom shall take all appropriate measures to ensure that their respective competition rules address in an effective manner all of the practices set out in Articles 28 to 30.

In particular, the United Kingdom shall adopt or maintain a competition law which addresses, in an effective manner, all of the practices set out in Articles 28 to 30.

2. The Union and the United Kingdom shall enforce the rules referred to in the first subparagraph of paragraph 1 in their respective territories.

For the purposes of the first subparagraph, the United Kingdom shall establish or maintain an operationally independent authority or authorities ("the independent authority"). The independent authority shall have the necessary guarantees of independence from political or other external influence and shall be able to perform its duties and exercise its powers impartially. It shall be appropriately equipped with all the powers and resources necessary for the full application and the effective enforcement of the competition law referred to in paragraph 1.

3. The United Kingdom shall apply the competition law referred to in paragraph 1 in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the undertakings concerned, irrespective of their nationality or ownership status.

#### Article 33: Cooperation

1. In order to enhance effective competition enforcement, the Union and the United Kingdom acknowledge that it is in their common interest to promote cooperation with regard to competition policy development and the investigation of antitrust and merger cases.
2. For this purpose, the competition authorities of the Union and the United Kingdom will endeavour to coordinate, where this is possible and appropriate, their enforcement activities relating to the same or related cases.
3. To facilitate the cooperation referred to in paragraph 1, the competition authorities of the Union and the United Kingdom may exchange information.
4. In implementing the objectives of this Article, the Union and the United Kingdom, or the competition authorities of the Union and the United Kingdom, may enter into a separate agreement or agree upon a separate framework on cooperation between the competition authorities.

#### Article 34: Monitoring and dispute settlement

The Parties shall ensure effective enforcement of the provisions in Articles 28 to 30 and shall not reduce the effectiveness of public and private enforcement of its competition laws, regulations and practices. In particular, the Parties shall ensure that administrative and judicial proceedings are available in order to permit effective and timely action against violations, and provide for effective remedies, including interim measures, ensuring that any sanctions are effective, proportionate and dissuasive and have a real and deterrent effect.

### **Part 6 State-Owned Undertakings**

Article 35: Neutral regulation

1. The Parties shall respect and make best use of relevant international standards including, inter alia, the OECD Guidelines on Corporate Governance of State-Owned Undertakings.
2. Any regulatory body or function that is established or maintained in the Union or the United Kingdom shall:
  - (a) be independent from and not accountable to any of the undertakings that it regulates in order to ensure the effectiveness of the regulatory function, and
  - (b) act impartially in like circumstances with respect to all undertakings that it regulates.
3. The Union and the United Kingdom shall ensure the enforcement of laws and regulations in a consistent and non-discriminatory manner.

**Part 7 Limitation of Dispute Settlement**

Article 36: Articles 170 to 181 of the Withdrawal Agreement shall not apply in respect of disputes regarding the interpretation and application of this Annex.

## **Annex 4**

### **Irish Border Measures**

Acknowledging that the European Union and the United Kingdom have entered into this Protocol to regulate trade in goods between the Parties expressing the desire on their part to achieve, to the maximum extent possible, the highest levels of simplification of customs procedures and formalities relating to cross-border trade in goods on the island of Ireland;

Affirming that the Good Friday or Belfast Agreement of 10 April 1998 between the Government of the United Kingdom, the Government of Ireland and the other participants in the multi-party negotiations (the "1998 Agreement"), which is annexed to the British-Irish Agreement of the same date (the "British-Irish Agreement"), including its subsequent implementation agreements and arrangements, should be protected in all its parts,

Recognising that cooperation between Northern Ireland and 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, and recalling the roles, functions and safeguards of the Northern Ireland Executive, the Northern Ireland Assembly, and the North-South Ministerial Council (including cross-community provisions), as set out in the 1998 Agreement,

Recognising that the land border between the EU and the UK which divides Northern Ireland from the Republic of Ireland (the "Irish Border") presents specific trade, legal and constitutional issues which have an impact on the peace process in Northern Ireland, as well as implicating the Belfast Agreement;

Recalling the commitment of Parties to protect North-South cooperation and its guarantee of avoiding a hard border, including any physical infrastructure or related checks and controls, and bearing in mind that any future arrangements must be compatible with these overarching requirements,

Noting that nothing in this Protocol prevents the United Kingdom from ensuring unfettered market access for goods moving from Northern Ireland to the rest of the United Kingdom's internal market,

Recognising the contribution to cross-border trade facilitation of carrying out technical and similar checks away from border posts and, to the maximum extent possible, through checks conducted at consignor, consignee or logistic service providers' premises or through market surveillance techniques;

Noting that with best practice and existing techniques, the customs and regulatory border can be managed without physical infrastructure or routine interventions at the land border;

Acknowledging that information technology provides effective solutions to the simplification and facilitation of cross-border trade between the Parties;

Acknowledging that goods in transit between the Parties present a far reduced security and safety risk and should be facilitated to the maximum extent possible whenever justified;

Recognising that the Island of Ireland constitutes a common bio-security zone for the purposes of disease prevention and public health;

Considering that the United Kingdom and the Republic of Ireland wish to maintain a common, island-wide perimeter for such bio-security measures;

Acknowledging that agreement between the Parties has been achieved on the equivalence and formalised certification/inspection regimes for SPS regulation;

Recalling that each Party shall recognise duly authorised individuals and conformity assessment bodies established in the territory of the other as competent to assess conformity with specific technical, veterinary and sanitary and phytosanitary measures;

Desiring to ensure that other regulatory matters can be enforced away from the border and in the market;

Confirming such oversight should also be part of the close coordination between authorities north and south of the Irish Border;

Acknowledging that control, inspection and supervision of imports into the United Kingdom, and information sharing with the EU is desirable where EU quotas and trade remedies are in operation;

Confirming both the United Kingdom and the Republic of Ireland may continue to make arrangements between themselves as to the movement of people and associated entitlements and rights in each other's territories ("Common Travel Area") and that Ireland has no present intention to exercise its option under Article 8 of Protocol (No 21) on The Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice to indicate that it no longer wishes to be covered by that Protocol or otherwise to assume obligations which would be incompatible with the operation of the CTA between itself and the United Kingdom, and the United Kingdom has no present intention to require visas for visits and short stays by EEA nationals;

Recalling the intention of the Parties that the all-Ireland electricity structure and single market should be maintained;

Acknowledging that goods in transit between the Parties present a reduced security and safety risk and should be facilitated to the maximum extent possible whenever justified;

Noting that intermediaries play a key role in facilitating cross-border trade and take the burden of compliance away from economic operators and that measures are needed to maximize their role in trade facilitation;

Recognising that assistance and support is required for Small-and-Medium Sized (SME) economic operators engaged in cross-border trade and that such trade is to be encouraged;

Noting that self-assessment and periodic declarations by economic operators can greatly contribute to the facilitation of cross-border trade and should be used whenever possible to unburden them from customs formalities;

Acknowledging that certification of origin is being simplified globally and by the Parties with the introduction of self-certification by exporters rendering it unnecessary for traders to incur cost or inconvenience in having goods independently certified;

HAVE AGREED AS FOLLOWS:

Article 1: This Annex shall apply to the cross-border movement of goods between the United Kingdom and the Republic of Ireland.

Article 2: The Parties agree that, in light of the commitments made in this Annex, as well as existing technology and systems, there is no requirement for erecting new frontier or customs control points or infrastructure at the border between the Parties.

Article 3: The Parties agree to develop and invest in IT systems that will improve cross-border trade without the need for establishing border control infrastructure.

Article 4: The Parties recognise that the cross-border movement of goods can be facilitated by customs facilitation procedures.

Article 5: Customs clearance declarations may be done at the premises of the exporter and importer or logistic service provider using available IT systems. In such cases, customs obligations may be carried out via administrative processes and away from the border.

Article 6: Both Parties will apply and enhance the customs cross-border simplifications which are now already available within the UCC and corresponding legislation and measures adopted by the United Kingdom to mirror those provisions.

Article 7: Both Parties will ensure that technical checks for goods take place at a reasonable distance from the border, including in facilities on either side of their common land border.

Article 8: The United Kingdom commits to continue to participate in the systems developed by the European Union for customs facilitation purposes and the electronic submission on customs declarations including:

- a) The Trade Control and Expert System (TRACES);
- b) REX (Registered Exporter System); and
- c) NCTS (New Computerised Transit System),

in each case as updated or replaced from time to time. In the event of these systems being changed by the European Union in a way which causes difficulty for the United Kingdom's continued operation of those systems or other unforeseen circumstances which cause difficulties to either Party, the Parties shall seek to agree appropriate revisions and modes of operation with the aim of maintaining or improving customs facilitation.

Article 9: Inland clearance shall be made available to registered cross-border traders through electronic export and import declarations being made and, if required,

inspections by HMRC or the Irish Revenue Commissioners (as applicable) or authorised intermediaries being made at the importer's premises.

- Article 10: The Parties agree to invest in support and training for small and medium sized businesses who are involved in trade across the Irish Border and to take necessary steps to permit and encourage the establishment of intermediary service providers to provide customs services to small and medium sized businesses.
- Article 11: For goods in transit between the Republic of Ireland and the United Kingdom, and vice versa, the movement of customs goods between loading points and unloading points will be regulated through the existing NCTS system.
- Article 12: The Parties agree that all trade of goods to which veterinary or SPS rules apply between the Great Britain and Northern Ireland and the Republic of Ireland, and between Northern Ireland and the Republic of Ireland will be required to use the TRACES system so all relevant transactions and regulations can be monitored.
- Article 13: The United Kingdom shall ensure that the measures in force in Northern Ireland in respect of the entry of animals into Northern Ireland that facilitate the common bio-security zone for the purposes of disease prevention and protection of public health shall continue to operate. In the event of proposed changes to either Party's regulations in this field, the Parties shall consult with the aim of adopting measures which continue to maintain the effectiveness of the common bio-security zone. The European Union agrees to recognise such measures in Northern Ireland for the purposes of allowing animals to enter the territory of the Republic of Ireland without being required to undergo further veterinary inspection and the United Kingdom agrees to recognise the equivalent measures in the Republic of Ireland for the purposes of allowing animals to enter the territory of the United Kingdom.
- Article 14: Other SPS measures included in the Customs and Trade Facilitation Chapter of this Agreement relating to import requirements are incorporated by reference into this Protocol.
- Article 15: Veterinary inspections can be done at the premises of the exporter and/or importer or at centralised inspection points by qualified inspectors.
- Article 16: Control on trade in livestock can be done through traceability systems and supply chain integration and by enhancing measures in the existing bio-security zone regulations for the island of Ireland and enforced at the ports of the Irish Sea.
- Article 17: The Parties may agree to increase the intensity of in-facility veterinary checks to be agreed in Veterinary Agreements between them.
- Article 18: The relevant authorities in Northern Ireland and the Republic of Ireland shall, if requested, share information to cooperate in accordance with Belfast Agreement.

Article 19: If the Protocol is terminated by either party for any reason, this Annex shall continue in force, and the Parties shall agree such modifications and additions necessary for its provisions to continue to take effect.

Article 20: In the event of an inconsistency between this Annex and the rest of the Protocol as it affects Northern Ireland, and the Irish land border, this Annex shall prevail.

## **Annex 5**

### **Mutual Recognition of Conformity Assessment**

#### **Article 1: Purpose**

1. The Union and the United Kingdom hereby grant mutual acceptance of reports, certificates, authorisations and conformity marks issued by the bodies recognised in accordance with the procedures of this Annex (hereinafter “recognised conformity assessment bodies”) and of the manufacturer's declarations of conformity certifying conformity to the requirements of the other Party in the areas covered.
2. In order to avoid duplication of procedures when United Kingdom and Union requirements are deemed equivalent, each of the Union and the United Kingdom shall accept reports, certificates and authorisations issued by recognised conformity assessment bodies in the territory of the other and declarations of conformity certifying conformity to their respective requirements in the areas by manufacturers in the territory of the other. Reports, certificates, authorisations and manufacturer's declarations of conformity shall in particular indicate conformity with the Union legislation. Conformity marks required by the legislation of one of the Parties must be affixed to products placed on the market of that Party.
3. The Committee provided for in Article 10 shall specify the cases in which paragraph 2 shall cease to apply.

#### **Article 2: Definitions**

1. For the purposes of this Annex:

"Conformity assessment" shall mean systematic examination to determine the extent to which a product, process or service fulfils specified requirements;

"Conformity assessment body" shall mean a public or private law body whose activities include performance of all or any stage of the conformity assessment process;

"Designating authority" shall mean an authority with the legal power to designate, suspend, withdraw designation or remove suspension of conformity assessment bodies under its jurisdiction.

2. The definitions laid down by ISO and IEC may be used to establish the meaning of the general terms relating to conformity assessment contained in this Annex.

#### **Article 3: Scope**

1. This Agreement covers the obligatory conformity assessment procedures ensuing from the legislative, regulatory and administrative provisions listed in Annex 5.a.

#### **Article 4: Origin**

The provisions of this Annex shall apply to products covered by this Annex irrespective of their origin.

#### **Article 5: Recognised conformity assessment bodies**

The Parties hereby agree that conformity assessment bodies recognised as at the date of this Annex or subsequently in accordance with the procedure provided for fulfil the conditions of eligibility to assess conformity.

#### **Article 6: Designating authorities**

1. The Parties hereby undertake to ensure that their designating authorities have the necessary power and competence to designate conformity assessment bodies or withdraw designation, suspend or remove suspension of designated conformity assessment bodies under their respective jurisdiction.
2. For the designation of conformity assessment bodies, the designating authorities shall observe the general principles for designation. These designating authorities shall observe the same principles when withdrawing designation, suspending or removing suspension.

#### **Article 7: Verification of designation procedures**

1. The Parties shall exchange information concerning the procedures used to ensure that recognised conformity assessment bodies under their jurisdiction comply with the general principles of designation outlined in this Annex.
2. The Parties shall compare methods used to verify conformity of the bodies with the general principles of designation outlined in this Annex. Existing systems for the accreditation of conformity assessment bodies in the Parties may be used for the purpose of such comparisons.
3. Verification shall be carried out in accordance with the procedure implemented by the Committee under Article 10 below.

#### **Article 8: Verification of compliance of conformity assessment bodies**

1. Each Party shall, in exceptional circumstances, have the right to contest the technical competence of the conformity assessment bodies proposed by the other Party or of recognised conformity assessment bodies under the jurisdiction of the other Party.

For this purpose, it shall submit in writing an objective and reasoned argument to the other Party.

2. In the event of a disagreement between the Parties, confirmed in the Committee, a verification of the technical competence of the conformity assessment body in question shall be undertaken in accordance with requirements jointly by the Parties, with the participation of the competent authorities concerned.

The result of that verification shall be discussed in the Committee with a view to resolving the issue as soon as possible.

3. Each Party shall ensure that the conformity assessment bodies under its jurisdiction are available for verification of their technical competence as required.
4. Unless otherwise decided by the Committee, the disputed body shall be suspended by the competent designating authority from the time disagreement has been established until agreement has been reached in the Committee. Such suspension shall be indicated in the common list of recognised conformity assessment bodies referred to in Annex 5(a).

#### **Article 9: Implementation of the Agreement**

1. The Parties shall cooperate with a view to ensuring the satisfactory application of the legislative, regulatory and administrative provisions listed in Annex 5(a).
2. The designating authorities shall ascertain by appropriate means whether the recognised conformity assessment bodies under their jurisdiction are observing the general principles of designation listed in Annex 5(a).
3. The recognised conformity assessment bodies shall cooperate in an appropriate way in the framework of the coordination and comparison work conducted by each of the Parties in respect of the sectors covered by Annex 5(a) in order to ensure that the conformity assessment procedures provided for in the laws and regulations of the Parties covered by this Agreement are applied in a consistent manner. The designating authorities shall use their best endeavours to ensure that recognised conformity assessment bodies cooperate in an appropriate way.

#### **Article 10: Committee**

1. A Committee on mutual recognition in relation to conformity assessment (hereinafter referred to as "the MR Committee"), is hereby established. It shall be composed of representatives of the Parties, and shall be responsible for the management and monitoring of the smooth functioning of this Annex. To that end, it shall issue recommendations and take decisions in the circumstances provided for in this Annex. It shall act by mutual agreement.
2. The MR Committee shall establish its own rules of procedure, which shall contain, inter alia, provisions on the convening of meetings, the appointment of the Chairman and the chairman's term of office.
3. The MR Committee shall meet as and when necessary and at least once a year. Either Party may request the convening of a meeting.
4. The Committee may consider any matter related to this Annex. In particular, it shall be responsible for:
  - (a) drawing up the procedure for carrying out the verifications;
  - (b) deciding on the recognition of conformity assessment bodies contested;

- (c) deciding on the withdrawal of recognition of recognised conformity assessment bodies contested;
  - (d) examining any legislative, regulatory and administrative provisions notified by one Party to another pursuant to Article 12 in order to assess their repercussions on the Agreement and to amend the appropriate sections in Annex 5(a).
5. The Committee may mutually agree, on a proposal from one of the Parties, to modify the provisions of this Annex.

**Article 11: Recognition, withdrawal of recognition, modification of the scope, and suspension of conformity assessment bodies**

1. The following procedure shall apply for the recognition of additional conformity assessment bodies in relation to the requirements set out in the relevant parts of this Annex:
- (a) A Party wishing to have recognised any conformity assessment body shall notify the other Party in writing of its proposal, to that effect, adding the appropriate information to its request.
  - (b) If the other Party agrees to the proposal or raises no objection within 60 days of the notification of the proposal, the conformity assessment body shall be considered to be a recognised conformity assessment body under the terms of Article 5.
  - (c) If the other Party raises objections in writing within that 60-day period, Article 8 shall apply.
2. A Party can withdraw or suspend the recognition or remove the suspension of recognition of a conformity assessment body under its jurisdiction. The Party concerned shall immediately notify the other Party of its decision in writing, together with the date of such decision. The withdrawal, suspension, or removal of suspension shall take effect at that date. Such withdrawal or suspension shall be indicated in the common list of recognised conformity assessment bodies referred to in this Annex. A Party can propose that the scope of activity of a recognised conformity assessment body under its jurisdiction be amended.
4. A Party can, in exceptional circumstances, contest the technical competence of a recognised conformity assessment body under the jurisdiction of the other Party.
5. Reports, certificates, authorisation and conformity marks issued by a conformity assessment body after the date at which its recognition has been withdrawn or suspended need not be recognised by the Parties. Reports, certificates, authorisations and conformity marks issued by a conformity assessment body before the date its recognition has been withdrawn shall continue to be recognised by the Parties unless the responsible designating authority has limited or cancelled their validity. The Party under whose jurisdiction the responsible designating authority is operating shall notify the other Party in writing of any such changes relating to a limitation or cancellation of validity.

## **Article 12 Information exchange**

1. The Parties shall exchange all relevant information regarding implementation and application of the legislative, regulatory and administrative provisions listed in Annex 5(a).
2. Each Party shall inform the other Party of the changes it intends to make to the legislative, regulatory and administrative provisions relating to the subject matter of this Annex and shall notify in writing the other Party of the new provisions at least 60 days before their entry into force.
3. Each Party shall notify changes to its designating authorities and competent authorities to the other Party in writing.
4. Where the legislation of one of the Parties stipulates that a specific item of information must be made available to the competent authority by a person established in its territory, that authority may also approach the competent authority of the other Party or enter into direct contact with the manufacturer or, if appropriate, the latter's agent in the territory of the other Party, in order to obtain that information.
5. Each Party shall immediately notify the other Party of safeguard measures taken in its territory.

## **Article 13 Confidentiality**

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose information acquired under this Annex which is of the kind covered by the obligation of professional secrecy. This information may not be used for purposes other than those envisaged by this Annex.

## **Article 14 Dispute settlement**

Each Party may refer any dispute relating to the interpretation or application of this Annex to the Committee. The Committee shall endeavour to settle the dispute, and must be supplied with any information which may facilitate a thorough examination of the situation with a view to finding an acceptable solution. For that purpose, the Committee shall consider every possible means of maintaining the smooth functioning of this Annex.

## **Article 15 Agreements with third countries**

The Parties hereby agree that mutual recognition agreements concluded by either Party with a country that is not party to this Agreement shall in no circumstances entail an obligation upon the other Party in terms of the acceptance of manufacturer's declarations of conformity as well as of reports, certificates, authorisations and marks issued by conformity assessment bodies in that third country, unless there is an explicit agreement between the Parties.

## **Article 16 Revision**

1. If a Party wishes to have this Annex revised, it shall inform the MR Committee. Modifications to this Annex shall enter into force after the respective internal procedures have been completed.

2. The MR Committee may modify the provisions of this Annex by mutual agreement acting on a proposal from one of the Parties.

### **Article 19 Suspension**

Where a Party establishes that the other Party is failing to comply with the conditions of this Annex, it may, after consulting the MR Committee, suspend application of relevant parts of Annex 5(a) in full or in part.

### **Article 20 Acquired rights**

In the event of termination or amendment of this Annex the Parties shall continue to recognise reports, certificates, authorisations and conformity marks and manufacturers' declarations of conformity issued in accordance with, and prior to the termination or relevant amendment of, this Annex, provided that the request for conformity evaluation to be started was made before the notice of the relevant amendment or termination was given.

## **Annex 5(a)**

### **Applicable Regulations**

Annex 5(a) defines the product sectors covered by this Agreement. The Annex is divided up into sectoral chapters and these are subdivided in principle as follows:

Section I: legislative, regulatory and administrative provisions;

Section II: conformity assessment bodies;

Section III: designating authorities;

Section IV: special rules relating to the designation of conformity assessment bodies;

Section V: any additional provisions. ]

[Taken from Annex 5 WA Protocol with additions for MR of conformity assessment]

## **Annex 6**

### **Animal health and zootechnical measures applicable to trade in live animals and animal products**

#### **Article 1 Coverage**

1. Part 1 of this Annex shall cover:
  - measures for the control and notification of certain animal diseases,
  - trade in and imports from third countries of live animals, their semen, ova and embryos.
2. Part 2 of this Annex shall cover trade in animal products.

#### **PART 1**

##### **TRADE IN LIVE ANIMALS, THEIR SEMEN, OVA AND EMBRYOS**

#### **Article 2 Legislation**

1. The Parties hereby note that they have similar legislation leading to identical results with regard to measures for the control and notification of animal diseases.
2. The legislation referred to in paragraph 1 is specified in section [•] of this Annex. That legislation, as implemented in each of the Union and the United Kingdom on the date of this Annex, shall apply subject to the special rules and procedures laid down in this Annex and the Protocol regarding the Border between Northern Ireland and the Republic of Ireland.

#### **Article 3 Compliance with Legislation**

The Parties hereby agree that trade in live animals, their semen, ova and embryos shall be carried out in accordance with the legislation specified in section [•] of this Annex. That legislation, as implemented in each of the Union and the United Kingdom on the date of this Annex, shall apply subject to the special rules and procedures laid down in this Annex and the Protocol regarding the Border between Northern Ireland and the Republic of Ireland.

#### **Article 4 Compatibility of Legislation**

1. The Parties hereby note that they have similar legislation leading to identical results with regard to imports from third countries of live animals, their semen, ova and embryos.
2. The legislation referred to in paragraph 1 is specified in section [•] of this Annex. That legislation shall apply subject to the special rules and procedures laid down in this Annex and the Protocol regarding the Border between Northern Ireland and the Republic of Ireland.

## **Article 5 Zootechnical Aspects**

The Parties hereby agree on the provisions of section [•] of this Annex regarding zootechnical aspects.

## **Article 6 Checks on Trade With Third Countries**

The Parties hereby agree that checks on trade in and imports from third countries of live animals, their semen, ova and embryos shall be carried out in accordance with the provisions set out in section [•] of this Annex.

### **PART 2**

#### **TRADE IN ANIMAL PRODUCTS**

## **Article 7 Objective**

The objective of this Part shall be to facilitate trade in animal products between the Parties by establishing a mechanism for the recognition of equivalence of animal-health measures applied to such products by the Parties with due regard for the protection of public and animal health, and to improve communication and cooperation on animal-health measures.

## **Article 8 Multilateral obligations**

Nothing in this Part shall limit the rights and obligations of the Parties under the Agreement establishing the World Trade Organisation and its Annexes thereto, and in particular the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).

## **Article 9 Scope**

1. The scope of this Part shall be limited to the animal-health measures applied by either Party to the animal products listed in section [•] of this Annex.
2. Save as otherwise provided in the Appendices to this Part and without prejudice to Article 20 of this Annex (Safeguards)], this Part shall not apply to animal-health measures relating to food additives (all food additives and colouring agents, processing aids and essences), irradiation, contaminants (physical contaminants and residues of veterinary medicinal products), chemicals arising from migration of substances from packaging materials, unauthorised chemical substances (food additives, processing aids, prohibited veterinary medicinal products, etc.), or the labelling of foodstuffs, medicated feeds and premixes.

## **Article 10 Definitions**

For the purposes of this Part, the following definitions shall apply:

- (a) "animal products" means the animal products covered by section [•] of this Annex;
- (b) "animal-health" measures means sanitary measures as defined in paragraph 1 of Annex A to the SPS Agreement for animal products;

- (c) "appropriate level of animal-health protection" means the level of protection as defined in paragraph 5 of Annex A to the SPS Agreement for animal products;
- (d) "competent authorities":
  - (i) United Kingdom - the authorities referred to in Section [•];
  - (ii) Union - the authorities referred to in Section [•].

### **Article 11 Adaptation to regional conditions**

1. For the purposes of trade between the Parties, the measures referred to in Article 2 shall apply without prejudice to paragraph 2 below.
2. Where either Party considers that it has special animal-health status with respect to a specific disease, it may request recognition of that status. The Party concerned may also request additional guarantees in accordance with that status in respect of imports of animal products. The guarantees for specific diseases shall be as specified in this Annex.

### **Article 12 Equivalence**

1. The recognition of equivalence requires an assessment and acceptance of
  - a) the legislation, standards and procedures, as well as the programmes in place to allow control and to ensure domestic and importing countries' requirements are met,
  - b) the documented structure of the competent authority or authorities, their powers, their chain of command, their modus operandi and the resources available to them,
  - c) the performance of the competent authority in relation to the control programme and level of assurances afforded.

In this assessment, the Parties shall take account of experience already acquired.

2. Equivalence shall apply to animal-health measures in force for animal product sectors or parts of sectors, to legislation, inspection and control systems or parts of systems and specific legislative provisions and inspection and/or hygiene requirements.

### **Article 13 Determination of equivalence**

1. To determine whether an animal-health measure applied by an exporting Party continues to meet the importing Party's appropriate level of animal-health protection, the Parties shall follow a procedure that includes the following steps:
  - (i) the animal-health measure for which maintenance of equivalence is sought shall be identified;
  - (ii) the importing Party shall explain the objective of the proposed change to its animal-health measure, providing an assessment, depending on the circumstances, of the risk or risks that the measure is intended to address; it shall define its appropriate level of animal-health protection;

- (iii) the exporting Party shall demonstrate that its animal-health measure continues to meet the importing Party's appropriate level of animal-health protection;
  - (iv) the importing Party shall determine whether the exporting Party's animal-health measure continues to meet its appropriate level of protection;
  - (v) the importing Party shall accept the animal-health measure of the exporting Party as equivalent if the exporting Party provides objective evidence to demonstrate that its measure continues to meet the importing Party's appropriate level of protection.
3. Where continued equivalence has not been recognised, trade may take place under the conditions set by the importing Party to meet its appropriate level of protection.

#### **Article 14 Recognition of sanitary measures**

1. The sectors or parts of sectors for which the respective animal-health measures are recognised as equivalent for trade purposes on the date of entry into force of this Annex shall be as listed in section [•] of this Annex. For those sectors or parts of sectors, trade in animal products shall take place in accordance with the legislation referred to in section [•] of this Annex. That legislation shall apply subject to the special rules and procedures laid down in section [•] of this Annex.
2. The sectors or parts of sectors to which the Parties may elect to apply different animal-health measures from time to time shall be as listed in section [•] of this Annex.

#### **Article 15 Border checks and payment of fees**

Checks on trade in animal products between the Union and the United Kingdom shall be carried out in accordance with the measures set out in Annex 6.(a).

#### **Article 16 Verification**

1. To increase confidence in the effective implementation of the provisions of this Part, each Party shall have the right to carry out audit and verification procedures in respect of the exporting Party, which may include:
- (a) an assessment of all or part of the competent authorities' control programme, including, where appropriate, a review of the inspection and audit programmes;
  - (b) on-the-spot checks.

These procedures shall be carried out in accordance with the procedures set out in Annex 6.(a).

2. As regards the Union:
- the Community shall carry out the audit and verification procedures provided for in paragraph 1,
  - the Member States shall carry out the border checks provided for in Article 15.

3. As regards the United Kingdom, the United Kingdom authorities shall carry out the audit and verification procedures provided for in paragraph 1 and the border checks provided for in Article 15.
4. Either Party may, with the consent of the other:
  - (a) share the results and conclusions of its audit and verification procedures and border checks with countries that are not signatories to this Agreement;
  - (b) use the results and conclusions of its audit and verification procedures and border checks covering countries that are not signatories to this Agreement.

### **Article 17 Notification**

1. This Article shall apply in circumstances where the relevant provisions of Articles 2 and 20 do not apply.
2. The Parties shall notify each other of:
  - significant changes in animal-health status within 24 hours,
  - epidemiological findings concerning diseases not covered by paragraph 1 and new diseases as soon as possible,
  - any additional measures laying outside the basic requirements of their respective animal-health measures taken to control or eradicate animal disease or protect public health, and any changes in prevention rules, including rules on vaccination.
3. Notifications as provided for in paragraph 2 shall be made in writing to the contact points set out in Section [•] of this Annex
4. In cases of serious and immediate concern for public or animal health, oral notification shall be made to the contact points set out in Annex 6.(a), to be confirmed in writing within 24 hours.
5. Where either Party has serious concerns regarding a risk to animal or public health, consultations shall, on request, be held as soon as possible, and in any case within 14 days. Each Party shall endeavour in such situations to provide all information necessary to avoid disruption of trade and to reach a mutually acceptable solution.

### **Article 18 Exchange of information and submission of scientific research and data**

1. The Parties shall exchange information relevant to the implementation of this Part on a uniform and systematic basis, with a view to providing assurances, engendering mutual confidence and demonstrating the effectiveness of the programmes checked. Where appropriate, exchanges of officials may also contribute towards achieving those objectives.
2. Exchange of information on changes in their respective animal-health measures and other relevant information shall include:
  - possible consideration of proposals for changes in regulatory standards or requirements which may affect this Part prior to ratification. If necessary, at the request of either Party, matters may be referred to the Joint Veterinary Committee,

- briefing on current developments affecting trade in animal products,
  - information on the results of verification procedures as provided for in Article 16.
3. The Parties shall ensure that scientific papers or data substantiating their views or claims are submitted to the relevant scientific authorities. Those authorities shall assess that material in good time and forward their findings to both Parties.
  4. The contact points for this exchange of information shall be as set out in Annex 6.(a).

### PART 3

#### GENERAL PROVISIONS

#### **Article 19 Joint Veterinary Committee**

1. A Joint Veterinary Committee made up of representatives of the Parties shall be set up. It shall consider any matter arising in connection with this Annex and its implementation. It shall also be responsible for the tasks provided for in this Annex.
2. The Joint Veterinary Committee shall be empowered to adopt decisions in the cases provided for in this Annex. Decisions adopted by the Joint Veterinary Committee shall be implemented by the Parties in accordance with their own rules.
3. The Joint Veterinary Committee shall periodically consider the state of the domestic laws and regulations of the Parties in the fields covered by this Annex. It may decide to amend the appendices hereto, in particular with a view to their adaptation and updating.
4. The Joint Veterinary Committee shall act by mutual agreement.
5. The Joint Veterinary Committee shall establish its own Rules of Procedure. The Joint Veterinary Committee may, where necessary, be convened at the request of either Party.
6. The Joint Veterinary Committee may set up technical working groups consisting of expert-level representatives of the Parties, which shall identify and address technical and scientific issues arising from this Annex. Where additional expertise is needed, the Joint Veterinary Committee may also establish ad hoc technical or scientific working groups, whose membership need not be restricted to representatives of the Parties.

#### **Article 20 Safeguards**

1. Where the Union or the United Kingdom intends to implement safeguard measures in respect of the other Party, it shall inform the latter in advance. Without prejudice to the right of either Party to bring the planned measures into force immediately, consultations shall be held as soon as possible between the competent Commission departments and the United Kingdom authorities with a view to finding appropriate solutions. If necessary, the matter may be referred to the Joint Committee at the request of either Party.
2. Where a Member State of the Union intends to implement interim protective measures in respect of the United Kingdom, it shall inform the latter in advance.

3. Where the Union decides to adopt safeguard measures with respect to a part of the territory of the Union or a third country, the competent Commission department shall inform the competent United Kingdom authorities as soon as possible. After examining the situation, the United Kingdom shall adopt the measures entailed by that decision unless it considers that such measures are not justified. In the latter case, paragraph 1 shall apply.
4. Where the United Kingdom decides to adopt safeguard measures with respect to a third country, it shall inform the competent Commission departments as soon as possible. Without prejudice to the United Kingdom's right to bring the planned measures into force immediately, consultations shall be held as soon as possible between the competent Commission departments and the United Kingdom authorities with a view to finding appropriate solutions. If necessary, the matter may be referred to the Joint Committee at the request of either Party.

### **Annex 6(a)**

#### Regulations

- (a) part A of Appendix [•] as regards measures recognised as equivalent;
- (b) part B of Appendix [•] as regards measures that cease to be recognised as equivalent;
- (c) part C of Appendix [•] as regards specific measures;
- (d) part D of Appendix [•] as regards payment of fees.

[Taken from Annex 5 WA Protocol with additions for SPS/animal health matters]