

## PART FOUR

### TRANSITION

#### ARTICLE 126

##### Transition period

There shall be a transition or implementation period, which shall start on the date of entry into force of this Agreement and end on 31 December 2020.

#### ARTICLE 127

##### Scope of the transition

1. Unless otherwise provided in this Agreement, Union law shall be applicable to and in the United Kingdom during the transition period.

However, the following provisions of the Treaties, and acts adopted by the institutions, bodies, offices or agencies of the Union, shall not be applicable to and in the United Kingdom during the transition period:

- (a) provisions of the Treaties and acts which, pursuant to Protocol (No 15) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union or Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, or pursuant to the provisions of the Treaties on enhanced cooperation, were not binding upon and in the United Kingdom before the date of entry into force of this Agreement as well as acts amending such acts;
- (b) Article 11(4) TEU, point (b) of Article 20(2), Article 22 and the first paragraph of Article 24 TFEU, Articles 39 and 40 of the Charter of Fundamental Rights of the European Union, and the acts adopted on the basis of those provisions.

2. In the event that the Union and the United Kingdom reach an agreement governing their future relationship in the areas of the Common Foreign and Security Policy and the Common Security and Defence Policy which becomes applicable during the transition period, Chapter 2 of Title V of the TEU and the acts adopted on the basis of those provisions shall cease to apply to the United Kingdom from the date of application of that agreement.

3. During the transition period, the Union law applicable pursuant to paragraph 1 shall produce in respect of and in the United Kingdom the same legal effects as those which it produces within the Union and its Member States, and shall be interpreted and applied in accordance with the same methods and general principles as those applicable within the Union.

4. The United Kingdom shall not participate in any enhanced cooperation:

(a) in relation to which authorisation was granted after the date of entry into force of this Agreement; or

(b) within the framework of which no acts were adopted before the date of entry into force of this Agreement.

5. During the transition period, in relation to measures which amend, build upon or replace an existing measure adopted pursuant to Title V of Part Three of the TFEU by which the United Kingdom is bound before the date of entry into force of this Agreement, Article 5 of Protocol (No 19) on the Schengen *acquis* integrated into the framework of the European Union and Article 4a of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice shall continue to apply *mutatis mutandis*. The United Kingdom shall not, however, have the right to notify its wish to take part in the application of new measures pursuant to Title V of Part Three of the TFEU other than those measures referred to in Article 4a of Protocol No 21.

In order to support continuing cooperation between the Union and the United Kingdom, under the conditions set out for cooperation with third countries in the relevant measures, the Union may invite the United Kingdom to cooperate in relation to new measures adopted under Title V of Part III TFEU.

6. Unless otherwise provided in this Agreement, during the transition period, any reference to Member States in the Union law applicable pursuant to paragraph 1, including as implemented and applied by Member States, shall be understood as including the United Kingdom.

7. By way of derogation from paragraph 6:

(a) for the purposes of Article 42(6) and Article 46 TEU and of Protocol (No 10) on permanent structured cooperation established by Article 42 TEU, any references to Member States shall be understood as not including the United Kingdom. This shall not preclude the possibility for the United Kingdom to be invited to participate as a third country in individual projects under the conditions set out in Council Decision (CFSP) 2017/2315<sup>1</sup> on an exceptional basis, or in any other form of cooperation to the extent allowed and under the conditions set out by future Union acts adopted on the basis of Article 42(6) and Article 46 TEU;

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<sup>1</sup> Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States (OJ L 331, 14.12.2017, p. 57).

- (b) where acts of the Union provide for the participation of Member States, nationals of Member States or natural or legal persons residing or established in a Member State in an information exchange, procedure or programme which continues to be implemented or which starts after the end of the transition period, and where such participation would grant access to security-related sensitive information that only Member States, nationals of Member States, or natural or legal persons residing or established in a Member State, are to have knowledge of, in such exceptional circumstances the references to Member States in such Union acts shall be understood as not including the United Kingdom. The Union shall notify the United Kingdom of the application of this derogation;
  
- (c) for the purposes of the recruitment of officials and other servants of the institutions, bodies, offices or agencies of the Union, any references to Member States in Articles 27 and 28(a) of the Staff Regulations and in Article 1 of Annex X thereto and in Articles 12, 82 and 128 of the Conditions of Employment of Other Servants of the European Union, or in the relevant provisions of other staff rules applicable to those institutions, bodies, offices or agencies, shall be understood as not including the United Kingdom.

## ARTICLE 128

### Institutional arrangements

1. Notwithstanding Article 127, during the transition period Article 7 shall apply.
2. For the purposes of the Treaties, during the transition period, the parliament of the United Kingdom shall not be considered to be a national parliament of a Member State, except as regards Article 1 of Protocol (No 1) on the role of national parliaments in the European Union and, in respect of proposals which are in the public domain, Article 2 of that Protocol.
3. During the transition period, provisions of the Treaties which grant institutional rights to Member States enabling them to submit proposals, initiatives or requests to the institutions shall be understood as not including the United Kingdom<sup>1</sup>.
4. For the purposes of participation in the institutional arrangements laid down in Articles 282 and 283 TFEU and in Protocol (No 4) on the Statute of the European system of central banks and of the European Central Bank, with the exception of Article 21(2) of that Protocol, during the transition period, the Bank of England shall not be considered to be a national central bank of a Member State.

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<sup>1</sup> This should in particular concern Articles 7, 30, 42(4), 48(2) – (6) and 49 TEU and Articles 25, 76(b), 82(3), 83(3), 86(1), 87(3), 135, 218(8), 223(1), 262, 311 and 341 TFEU.

5. By way of derogation from paragraph 1 of this Article and from Article 7, during the transition period, representatives or experts of the United Kingdom, or experts designated by the United Kingdom, may, upon invitation, exceptionally attend meetings or parts of meetings of the committees referred to in Article 3(2) of Regulation (EU) No 182/2011, meetings or parts of meetings of Commission expert groups, meetings or parts of meetings of other similar entities, and meetings or parts of meetings of bodies, offices or agencies, where and when representatives or experts of the Member States or experts designated by Member States take part, provided that one of the following conditions is fulfilled:

- (a) the discussion concerns individual acts to be addressed during the transition period to the United Kingdom or to natural or legal persons residing or established in the United Kingdom;
- (b) the presence of the United Kingdom is necessary and in the interest of the Union, in particular for the effective implementation of Union law during the transition period.

During such meetings or parts of meetings, the representatives or experts of the United Kingdom or experts designated by the United Kingdom shall have no voting rights and their presence shall be limited to the specific agenda items that fulfil the conditions set out in point (a) or (b).

6. During the transition period, the United Kingdom shall not act as leading authority for risk assessments, examinations, approvals or authorisations at the level of the Union or at the level of Member States acting jointly as referred to in the acts and provisions listed in Annex VII.

7. During the transition period, where draft Union acts identify or refer directly to specific Member State authorities, procedures, or documents, the United Kingdom shall be consulted by the Union on such drafts, with a view to ensuring the proper implementation and application of those acts by and in the United Kingdom.

## ARTICLE 129

### Specific arrangements relating to the Union's external action

1. Without prejudice to Article 127(2), during the transition period, the United Kingdom shall be bound by the obligations stemming from the international agreements concluded by the Union, by Member States acting on its behalf, or by the Union and its Member States acting jointly, as referred to in point (a)(iv) of Article 2.\*

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\* The Union will notify the other parties to these agreements that during the transition period the United Kingdom is to be treated as a Member State for the purposes of these agreements.



2. During the transition period, representatives of the United Kingdom shall not participate in the work of any bodies set up by international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly, unless:

- (a) the United Kingdom participates in its own right; or
- (b) the Union exceptionally invites the United Kingdom to attend, as part of the Union's delegation, meetings or parts of meetings of such bodies, where the Union considers that the presence of the United Kingdom is necessary and in the interest of the Union, in particular for the effective implementation of those agreements during the transition period; such presence shall only be allowed where Member States participation is permitted under the applicable agreements.

3. In accordance with the principle of sincere cooperation, the United Kingdom shall refrain, during the transition period, from any action or initiative which is likely to be prejudicial to the Union's interests, in particular in the framework of any international organisation, agency, conference or forum of which the United Kingdom is a party in its own right.

4. Notwithstanding paragraph 3, during the transition period, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided those agreements do not enter into force or apply during the transition period, unless so authorised by the Union.

5. Without prejudice to Article 127(2), whenever there is a need for coordination, the United Kingdom may be consulted, on a case-by-case basis.

6. Following a decision of the Council falling under Chapter 2 of Title V TEU, the United Kingdom may make a formal declaration to the High Representative of the Union for Foreign Affairs and Security Policy, indicating that, for vital and stated reasons of national policy, in those exceptional cases it will not apply the decision. In a spirit of mutual solidarity, the United Kingdom shall refrain from any action likely to conflict with or impede Union action based on that decision, and the Member States shall respect the position of the United Kingdom.

7. During the transition period, the United Kingdom shall not provide commanders of civilian operations, heads of mission, operation commanders or force commanders for missions or operations conducted under Articles 42, 43 and 44 TEU, nor shall it provide the operational headquarters for such missions or operations, or serve as framework nation for Union battlegroups. During the transition period, the United Kingdom shall not provide the head of any operational actions under Article 28 TEU.

## ARTICLE 130

### Specific arrangements relating to fishing opportunities

1. As regards the fixing of fishing opportunities within the meaning of Article 43(3) TFEU for any period falling within the transition period, the United Kingdom shall be consulted in respect of the fishing opportunities related to the United Kingdom, including in the context of the preparation of relevant international consultations and negotiations.
2. For the purposes of paragraph 1, the Union shall offer the opportunity to the United Kingdom to provide comments on the Annual Communication from the European Commission on fishing opportunities, the scientific advice from the relevant scientific bodies and the proposals from the European Commission for fishing opportunities for any period falling within the transition period.
3. Notwithstanding point (b) of Article 129(2), with a view to allowing the United Kingdom to prepare its future membership in relevant international fora, the Union may exceptionally invite the United Kingdom to attend, as part of the Union's delegation, international consultations and negotiations referred to in paragraph 1 of this Article, to the extent allowed for Member States and permitted by the specific forum.

4. Without prejudice to Article 127(1), the relative stability keys for the allocation of fishing opportunities referred to in paragraph 1 of this Article shall be maintained.

## ARTICLE 131

### Supervision and enforcement

During the transition period, the institutions, bodies, offices and agencies of the Union shall have the powers conferred upon them by Union law in relation to the United Kingdom and to natural and legal persons residing or established in the United Kingdom. In particular, the Court of Justice of the European Union shall have jurisdiction as provided for in the Treaties.

The first paragraph shall also apply during the transition period as regards the interpretation and application of this Agreement.

## ARTICLE 132

### Extension of the transition period

1. Notwithstanding Article 126, the Joint Committee may, before 1 July 2020, adopt a single decision extending the transition period up to [31 December 20XX].\*

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\* In case of extension, the Union will notify other parties to international agreements thereof.

2. In case of a decision of the Joint Committee under paragraph 1 the following shall apply:
- (a) by derogation from Article 127(6), the United Kingdom shall be considered as a third country for the purposes of the implementation of the Union programmes and activities committed under the multiannual financial framework applying as from the year 2021;
  - (b) by derogation from Article 127(1) and without prejudice to Part Five of this Agreement, the applicable Union law concerning the Union's own resources relating to the financial years [2021 - 20XX] shall not apply to the United Kingdom after 31 December 2020;
  - (c) by derogation from Article 127 (1), Articles 107, 108 and 109 TFEU shall not apply to measures of the United Kingdom authorities, including on Rural Development, supporting the production of and trade in agricultural products in the United Kingdom up to an annual level of support which shall not be more than the total amount of expenditure incurred in the United Kingdom under the Common Agricultural Policy in 2019, and provided that a minimum percentage of that exempted support complies with the provisions of Annex 2 to the WTO Agreement on Agriculture. Such minimum percentage shall be determined on the basis of the last available percentage to which the overall expenditure under the Common Agricultural Policy in the Union complied with the provisions of Annex 2 to the WTO Agreement on Agriculture;
  - (d) for the period between 1 January 2021 and the end of the transition period, the United Kingdom shall: shall make a contribution to the Union budget, as determined in accordance with paragraph 3;

(e) subject to paragraph 3 (d), part Five of this Agreement shall not be affected.

3. A decision of the Joint Committee under paragraph 1 shall:

- (a) establish the appropriate amount of the contribution of the United Kingdom to the Union budget for the period between 1 January 2021 and the end of the transition period, taking into account the status of the United Kingdom during that period, as well as the modalities of payment of that amount;
- (b) specify the maximum annual level of exempted support, as well as the minimum percentage of it that shall comply with the provisions of Annex 2 to the WTO Agreement on Agriculture, as referred to in point (c) of paragraph 2;
- (c) lay down any other measure necessary for the implementation of paragraph 2;
- (d) adapt the dates or periods referred to in Articles 51, 62, 63, 84, 96, 125, 141, 156, 157 and Annexes IV and V to reflect the extension of the transition period.