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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Getting ready for changes  
Communication on readiness at the end of the transition period  
between the European Union and the United Kingdom**

# Getting ready for changes

## Communication on readiness at the end of the transition period between the European Union and the United Kingdom

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## I. INTRODUCTION

The United Kingdom of Great Britain and Northern Ireland ('United Kingdom' or 'UK') left the European Union ('EU') and the European Atomic Energy Community ('Euratom') – hereafter referred together as 'Union' – on 1 February 2020. The Withdrawal Agreement<sup>1</sup> concluded between the Union and the United Kingdom entered into force on that date, securing the United Kingdom's orderly departure, and providing legal certainty in important areas, including citizens' rights, the financial settlement and avoiding a hard border on the island of Ireland (see Box in part III).

As a third country, the United Kingdom no longer participates in the Union's decision-making. It is not represented in the EU institutions, EU agencies, offices or other Union bodies.

However, in accordance with the Withdrawal Agreement, Union law continues to apply to and in the United Kingdom<sup>2</sup> for a 'transition period' lasting until 31 December 2020.<sup>3</sup>

During the transition period, the United Kingdom continues to participate in the EU's Single Market and Customs Union, to benefit from Union policies and programmes, and has to continue to abide by the obligations of the international agreements, to which the Union is a party. This transition period therefore offers a period of continuity, which the Union is using to:

1. ensure that all necessary measures and arrangements for the implementation of the Withdrawal Agreement, as of 1 January 2021, are put in place;
2. negotiate an agreement on a new partnership with the United Kingdom, and;
3. ensure readiness for the end of the transition period on 1 January 2021, when the United Kingdom will no longer participate in the EU's Single Market and Customs Union, nor in Union policies and programmes,<sup>4</sup> nor benefit from the Union's international agreements. This choice was confirmed by the United Kingdom's government in its approach to the negotiations on the future relationship with the European Union, published on 27 February 2020 as well as in later statements by the UK government.<sup>5</sup>

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<sup>1</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 ('Withdrawal Agreement').

<sup>2</sup> Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this Communication.

<sup>3</sup> In line with Article 132(1) of the Withdrawal Agreement, it would have been possible to extend this transition period once, by up to one or two years by way of a joint decision by the European Union and United Kingdom before 1 July 2020. The United Kingdom refused any such decision, meaning that, by legal automaticity, the transition period will end on 31 December 2020.

<sup>4</sup> Except those covered by Article 138 of the Withdrawal Agreement and Political Declaration (Peace Plus).

<sup>5</sup> HM Government, 'The Future Relationship with the Union: The UK's Approach to Negotiations', 27 February 2020.

With regard to the negotiations on a new partnership with the United Kingdom, the extraordinary situation resulting from the coronavirus pandemic meant that, apart from the first negotiation round, the subsequent three rounds had to be held by videoconference. For the same reason, the time elapsing between the first and second rounds was longer than originally intended.

Negotiations so far have shown little progress. Discussions have now been intensified over the summer, with negotiation rounds and/or specialised sessions scheduled each week since 29 June 2020.

The Commission will continue to negotiate based on the mandate given to it by the Council in February 2020 and supported by the European Parliament. The Commission services published a detailed draft legal text<sup>6</sup> in line with this mandate. Our objective is to conclude, by the end of 2020, an ambitious partnership covering all areas agreed with the United Kingdom in the Political Declaration<sup>7</sup>. That declaration was endorsed by all EU leaders and Prime Minister Johnson on 17 October 2019.

Nonetheless, even if the European Union and the United Kingdom were to conclude, by the end of 2020, an ambitious partnership covering all areas agreed in the Political Declaration such an agreement would create a relationship which will be very different from the United Kingdom's participation in the EU Single Market<sup>8</sup> and Customs Union, and in the VAT and excise duty area.

Inevitably, the fact that the United Kingdom will no longer participate in Union policies as of the end of the transition period will create barriers to trade in goods and services and to cross-border mobility and exchanges that do not exist today. This will happen in both directions, i.e. from the United Kingdom to the Union, as well as from the Union to the United Kingdom. Public administrations, businesses, citizens and stakeholders on both sides will be affected and must therefore prepare.

The choices made by the United Kingdom's government on the future relationship and on not extending the transition period mean that these inevitable disruptions will occur as of 1 January 2021 and risk compounding the pressure that businesses are already under due to the COVID-19 outbreak.

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<sup>6</sup> Draft text of the Agreement on the New Partnership between the European Union and the United Kingdom, published on 17 March 2020, see: [https://ec.europa.eu/info/publications/draft-text-agreement-new-partnership-united-kingdom\\_en](https://ec.europa.eu/info/publications/draft-text-agreement-new-partnership-united-kingdom_en)

<sup>7</sup> Revised text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom as agreed at negotiators' level on 17 October 2019, OJ C34, 31 January 2020, 1-16.

<sup>8</sup> In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the 'country of origin principle', and harmonisation. With a free trade agreement there are customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

It is essential that all stakeholders be made aware of this, and that they ensure their readiness for these broad and far-reaching changes, which will arise *under any scenario*, regardless of the outcome of negotiations between the European Union and the United Kingdom. There is no room for complacency or postponing readiness and adaptation measures in anticipation that an agreement would ensure continuity, because a large number of changes will be inevitable.

This Communication in no way seeks to prejudge the outcome of negotiations, nor to examine the possible implications of a failure to reach an agreement on a future partnership. Instead, it aims to highlight the main areas of inevitable change and to facilitate readiness and preparations by citizens, public administrations, businesses and all other stakeholders for these unavoidable disruptions.

In particular, businesses should consider revisiting their existing preparedness plans. Although these were drawn up for the risk of the UK's withdrawal from the Union without a withdrawal agreement – a scenario which did not materialise – part of that work will still be very relevant for the changes at the end of the transition period.

In this spirit, the Commission is also reviewing all 102 stakeholder notices which it published during the phase of withdrawal negotiations, most of which continue to be relevant for the end of the transition period. So far, 51 of these notices have been updated to reflect the changes that will occur at the end of the transition period, and further updates will be published soon. A list can be found in Annex I to this Communication.

## **II. CHANGES HAPPENING IN ANY SCENARIO**

This section provides an overview of the main areas of change that will take place **in any event** as of the end of the transition period, whether there is an agreement on a future partnership between the European Union and the United Kingdom or not.

The changes described here will result automatically from the fact that, as of 1 January 2021, the transition period allowing for the temporary participation of the United Kingdom in the EU Single Market and Customs Union will cease, thereby putting an end to the free movement of persons, goods and services. Leaving the Single Market and Customs Union will lead to additional barriers to trade and to the cross-border mobility of people, and adjustments will be necessary both on the side of the Union and of the United Kingdom. By leaving the Union, the United Kingdom is also leaving all Union international agreements, automatically and by law.

If not yet done, public administrations, businesses and citizens in the Union must urgently take all the necessary readiness measures to prepare for these changes with a view to minimising the cost of disruptions as much as possible.

## **A. Trade in goods<sup>9</sup>**

The changes described in the following sub-sections will not apply with respect to trade between the EU and Northern Ireland, where the Protocol on Ireland and Northern Ireland, which is an integral part of the Withdrawal Agreement, will apply as of the end of the transition period, alongside any agreement on a future partnership.<sup>10</sup>

In accordance with that Protocol, Union rules relating to goods (including fiscal rules, i.e. indirect taxation and non-fiscal rules) and the Union Customs Code will also continue to apply to and in Northern Ireland (see Box in part III for more information).

### **A.1. Customs formalities, checks and controls**

During the transition period, the United Kingdom is part of the EU Single Market and Customs Union. Therefore, there are currently no customs formalities for goods moving between the United Kingdom and the Union.

**As of 1 January 2021**, the United Kingdom will no longer be part of the EU Customs Union. Therefore, customs formalities required under Union law will apply to all goods entering the customs territory of the Union from the United Kingdom, or leaving that customs territory to the United Kingdom.

**This will happen even if an ambitious free trade area is established with the United Kingdom, providing for zero tariffs and zero quotas on goods, with customs and regulatory cooperation.**

On the EU side, customs authorities will carry out controls on the basis of the Union Customs Code, according to the common risk-based system applied to any other external border of the Union with regard to the movement of goods in relations to third countries. These controls are likely to lead to increased administrative burdens for businesses and longer delivery times in logistical supply chains.

As of 1 January 2021, EU businesses wishing to import from or export to the United Kingdom will need to ensure they have an Economic Operators Registration and Identification (EORI) number<sup>11</sup> in order to go through customs formalities. In addition, EORI numbers issued by the United Kingdom will no longer be valid in the Union. Businesses based in the United Kingdom wishing to import into the Union will need to receive an EU EORI number, or appoint a Union customs representative where applicable. Furthermore, as of 1 January

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<sup>9</sup> The Withdrawal Agreement enables goods placed on the market before the end of the transition period to continue to be further made available on the EU or UK market until they reach their end-user, with no need for re-certification, re-labelling or product modifications.

<sup>10</sup> Subject to the consent, four years after the end of the transition period, by the Northern Ireland Legislative Assembly to the continued application of the Protocol.

<sup>11</sup> EORI numbers are identification numbers that all businesses and people wishing to trade outside of the EU must use for identification in all customs procedures and formalities and more generally when exchanging information with customs administrations.

2021, Authorised Economic Operators authorisations or other authorisations issued by the United Kingdom will cease to be valid in the Union. Where the economic operators wish to obtain EU authorisations, they need to apply for them in an EU Member State.

#### **Advice to businesses and Member State administrations**

EU businesses must acquaint themselves with the formalities and procedures for doing business with the United Kingdom as a third country as of 1 January 2021. They should also factor in the increased administrative obligations and potentially longer timeframes resulting from these formalities and procedures. This might entail significant changes to the organisation of existing supply chains. Businesses are responsible for assessing the actions needed in view of these changes, in light of their individual situation.

The administrations of EU Member States have prepared the major border passage points and developed solutions to ensure the application of the Union Customs Code in this context. Where necessary, they should continue implementing and refining those options, and pursue their efforts to raise awareness among businesses, targeting small and medium-sized enterprises (SMEs) in particular.<sup>12</sup>

#### **A.2. Customs and taxation rules for import and export of goods (tariffs, VAT, excise)**

During the transition period, the United Kingdom is part of the EU Customs Union and part of the EU's VAT and excise territory.

Therefore, no tariffs or quotas are applied on goods traded between the European Union and the United Kingdom, and there is no need to demonstrate the origin of goods traded.

Furthermore, the regime applied for taxes (VAT, excise duties) is the one applied for intra-Union trade, meaning there is no need for corresponding controls at the border between the United Kingdom and the Union.

**As of 1 January 2021**, the originating status of goods traded will have to be demonstrated in order for them to be entitled to preferential treatment under a possible future EU-UK agreement. Goods not meeting origin requirements will be liable to customs duties even if a zero-tariff, zero-quota EU-UK trade agreement is put in place. Trade between the EU and its preferential partners will also be affected, as UK content (in terms of both material and processing operations) will become 'non-originating' under Union preferential trade arrangements for the determination of the preferential origin of the goods that incorporate such UK content. In practice, this entails a need for EU exporters to reassess their supply chains. They may have to relocate production or change suppliers for certain inputs in order

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<sup>12</sup> During the UK's withdrawal phase, the Commission and national customs authorities have already made available a significant number of detailed information notices regarding how the new customs borders between the Union and the UK will be operated.



to continue to benefit from Union preferential trade arrangements with current Union preferential partners. Union importers claiming preferential treatment in the EU will also need to ensure that the third-country exporter is able to prove that the goods comply with the requirements on preferential origin after the end of the transition period. It should also be noted that, in order to maintain their preferential originating status, goods will need to meet provisions related to direct transport/non-manipulation contained in EU preferential agreements if passing through or stopping over in UK territory.

Furthermore, Value Added Tax (VAT) will be due upon importation of goods brought into the VAT territory of the European Union from the United Kingdom, at the rate that applies to supplies of the same goods within the Union. Goods exported from the Union to the United Kingdom will be exempt from VAT if they are dispatched or transported to the United Kingdom, as would be the case for any other destination outside the European Union. In such situations, the supplier of exported goods must be able to prove that the goods have left the Union.

As with any import from third countries into the Union, excise duties for excisable goods (alcoholic beverages, tobacco products, etc.) will be due upon importation into the Union, and payable when goods are put on the market. In the future, imports from the United Kingdom could also be subject to anti-dumping, countervailing or safeguard measures in the framework of the European Union's trade defence policy.

**Advice to businesses and Member State administrations**

Traders will need to be able to demonstrate the originating status of goods traded for them to be entitled to preferential treatment under a possible future EU-UK agreement. Goods not meeting origin requirements would not benefit from those preferential trade arrangements.

EU businesses should also be ready to start treating any UK content (inputs and processes) as 'non-originating' in the context of trade with current Union preferential partner countries, in order to be sure that their exports can continue to benefit from the preferential treatment accorded by the Union's Free Trade Agreements in any event as of the end of the transition period.<sup>13</sup> United Kingdom content incorporated in goods obtained in third countries with which the Union has preferential trade arrangements and imported into the Union will be also 'non-originating'. The United Kingdom will henceforth be a third country for the purpose of the direct transport/non-manipulation rule and businesses should adapt their logistics accordingly.

Furthermore, EU businesses should get acquainted with the relevant VAT procedures and prepare for their application. They should factor in increased administrative obligations and

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<sup>13</sup> Supplier declarations, including long-term supplier declarations will have to be adapted accordingly.

potential delays where relevant. This might entail significant changes to the organisation of existing supply chains and accounting processes.

The administrations of EU Member States should prepare for the additional burden created by these changes, both in terms of staffing and training, and step up awareness-raising, targeting small and medium-sized enterprises in particular.

### **A.3. Certificates and authorisations of products, establishment requirements, labelling and marking**

During the transition period, the United Kingdom takes part in the Single Market, including the Single Market for goods. Goods can be freely traded between the European Union and the United Kingdom without being subject to checks thanks to the existence of a single, Union regulatory framework for the placing on the market of goods, including harmonised technical rules, safety and environmental standards, and mutual recognition. The EU institutions and bodies, such as EU agencies, oversee the good functioning of this framework.

**As of 1 January 2021**, the Union and the United Kingdom will be two separate regulatory and legal spaces.

This means that all products exported from the Union to the United Kingdom will have to comply with UK rules and standards and will be subject to any applicable regulatory compliance checks and controls on imports. Similarly, all products imported from the United Kingdom to the Union will need to comply with Union rules and standards and will be subject to all applicable regulatory compliance checks and controls on imports for safety, health and other public policy purposes.

EU businesses that currently distribute products coming from the United Kingdom will become exporters or importers for products they place on the Union market. This means that they will need to comply with the obligations of an exporter or an importer according to the applicable Union rules.

As regards the authorisation and certification of products, on the Union side:

- Certificates or authorisations issued by UK authorities or by bodies based in the United Kingdom will no longer be valid for placing products on the Union market. This means, for instance, that a motor vehicle with a type approval issued by the United Kingdom can no longer be placed on the Union market. Where Union legislation requires certification by an EU Notified Body – e.g. for some medical devices, machinery, personal protective equipment or construction products – products certified by UK-based bodies will no longer be allowed to be placed on the Union market.

- Where Union legislation requires registration of products in databases, this may have to be done by an importer in the Union or an authorised representative of the UK manufacturer.<sup>14</sup>
- Where Union legislation provides for a requirement to be established in the Union for certain economic operators or other natural or legal persons (e.g. authorised representatives of third-country manufacturers or ‘responsible persons’ for regulatory compliance), establishment in the United Kingdom will no longer be recognised in the Union. This means that a relocation of the authorised representative/responsible person from the United Kingdom to the Union will be necessary, or a new authorised representative/responsible person established in the European Union will have to be appointed.
- Markings or labelling of goods placed on the Union market, which refer to bodies or persons established in the United Kingdom, will no longer comply with Union labelling requirements.

Finally, Union rules prohibiting or restricting certain imports / exports of goods<sup>15</sup> for public policy reasons such as the protection of health, safety and the environment will apply to trade with the United Kingdom, as with any third country.

<i>Examples of sectoral compliance</i>	
<p><i>Chemical products</i></p> <p>As of 1 January 2021, Union rules on the registration, evaluation, authorisation and restriction of chemicals (REACH)<sup>16</sup> will no longer apply in the United Kingdom.</p> <p>Registrations held by manufacturers and producers established in the United Kingdom will no longer be valid in the European Union. These entities will have to ensure that their substances are registered with a manufacturer or importer in the European Union or appoint an ‘Only Representative’ in the European Union as registrant for the substance.</p> <p>Downstream users will have to check whether substances they use are registered</p>	<p><i>Health products (medical devices and medicinal products for human or veterinary use)</i></p> <p>As of 1 January 2021, the United Kingdom will exit the Union’s regulatory system for medicinal products and medical devices.</p> <p>As a result:</p> <ul style="list-style-type: none"> <li>• all marketing authorisation holders need to be established in the European Union;</li> <li>• testing and batch release sites will need to be located in the European Union;</li> <li>• qualified persons responsible for pharmacovigilance and batch release (including investigational medicinal products) will need to be established in</li> </ul>

<sup>14</sup> For example in the case of the European Product Database for Energy Labelling (EPREL).

<sup>15</sup> Examples include waste, firearms, ‘dual use goods’, specimens of endangered species, and certain hazardous chemicals.

<sup>16</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency OJ L 396, 30.12.2006, p. 1.

<p>by a registrant established in the European Union. Where this is not the case, they should:</p> <ul style="list-style-type: none"> <li>• adapt their supply chain accordingly (i.e. identify an alternative supplier);</li> <li>• check whether the UK registrant they deal with plans to appoint an 'Only Representative' in the European Union; or</li> <li>• register the substance in the capacity of importer.</li> </ul>	<p>the European Union;</p> <ul style="list-style-type: none"> <li>• any clinical trials authorised in the Union will need to have a sponsor or a legal representative established in the European Union;</li> <li>• information and labelling will have to comply with Union requirements, including as regards co-labelling of medicines according to the terms of the marketing authorisation granted in the UK;</li> <li>• the certification of medical devices will have to be carried out by notified bodies established in the European Union.</li> </ul>
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### **Advice to businesses and Member State administrations**

EU businesses placing goods on the UK market will need to make sure that they comply with all relevant UK rules as of 1 January 2021.

As regards authorisation and certification processes, while preparatory measures should have been taken already in 2019, EU businesses should double-check compliance well ahead of 1 January 2021.

The administrations of EU Member States should step up awareness-raising, targeting small and medium-sized enterprises in particular.

## **B. Trade in services**

During the transition period, the United Kingdom takes part in the EU Single Market, including the Single Market for services. Therefore, UK businesses benefit from the freedom of establishment and from the possibility to provide services in any EU Member State. They benefit from a common regulatory and supervisory environment, which frames possible measures that national authorities can adopt. This environment also allows service providers to benefit from an advanced system of recognition of professional qualifications.

Furthermore, in certain areas regulated at Union level, the cross-border exchange of services benefits from the country-of-origin approach or concept of 'passporting', which implies that the authorisation issued by one Member State based on Union rules is sufficient to access the entire EU Single Market due to a harmonisation of standards, technical rules and regulatory and supervisory frameworks. These principles underpin the free movement of certain services between EU countries, for instance in the financial, audiovisual, or transport areas.

**As of 1 January 2021**, the freedom of establishment and the freedom to provide services, as provided for by the Union treaties, will no longer benefit individuals and businesses from the United Kingdom operating in the European Union or EU individuals and businesses operating in the United Kingdom.

Authorisations granted by UK authorities under the EU Single Market framework will no longer be valid in the Union as of 1 January 2021. This has particular relevance for the areas of financial services, transport, audiovisual media, and energy services.

In order to access the Union market, UK service providers and professionals established in the United Kingdom will need to demonstrate compliance with any rules, procedures and/or authorisations that condition the provision of services in the European Union by foreign nationals and/or companies established outside the Union.<sup>17</sup> Those requirements might be set out in Union law or, more frequently, in national regimes, but will be conditioned by the commitments taken by the European Union under the World Trade Organization's General Agreement on Trade in Services, and also within the future relationship agreement with the United Kingdom.

Similarly, EU service providers and professionals established in the Union and operating in the United Kingdom will need to demonstrate compliance with all relevant UK rules.

### **B.1. Financial services**

During the transition period, the United Kingdom takes part in the EU's Single Market, including the Single Market for financial services. Therefore, currently, financial services can be provided from the United Kingdom to the EU with a single authorisation or 'passport' per relevant financial services area, issued by the UK authorities. Union operators can use the 'passports' of their home state to provide financial services to and in the UK.

**As of 1 January 2021**, authorisations to provide services from the United Kingdom across the EU will stop applying. The provision of financial services from the United Kingdom to the EU will be possible subject to the relevant third country rules of the Member State concerned. Union businesses, banks or investors that currently rely on these services should be aware of this change and prepare accordingly. EU financial services providers with operations in the United Kingdom should also prepare to abide by all relevant UK rules.

Under the equivalence frameworks foreseen in certain Union legal acts, the European Union has the possibility to facilitate specific interactions between the Union and UK financial systems by recognising that the relevant UK regulatory and supervisory regimes are equivalent to the corresponding Union legislation and requirements. Only a limited number of these equivalences allow third-country firms to provide their services to EU clients.

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<sup>17</sup> Including immigration and visa requirements, where applicable.

Examples include the areas of central securities depositories, and central clearing counterparties (CCPs). Specifically for investment firms, a new, improved equivalence framework will enter into force in mid-2021. In most areas, such as insurance, commercial bank lending or deposit-taking, equivalence does not allow third-country firms to provide services to the EU but provide prudential or reporting reliefs to EU firms.

Union equivalence decisions do not replicate the benefits of the Single Market for the United Kingdom as the obligations and safeguards of the EU's Single market eco-system will stop applying in the United Kingdom. Equivalence decisions can be unilaterally withdrawn at any time, in particular if third-country frameworks diverge and the conditions for equivalence are no longer fulfilled.

As the Union's equivalence frameworks are unilateral, neither the equivalence assessments, nor possible decisions for granting equivalence are part of the negotiations with the United Kingdom. The current interconnectedness between the EU and the United Kingdom market requires that the Commission, in assessing equivalence, be particularly mindful of the risks for the EU in terms of financial stability, market transparency, market integrity, investor protection and level-playing field. In addition, the United Kingdom government's stated intention to diverge from the Union's regulatory and supervisory frameworks in the area of financial services after the transition period requires that the Commission assess UK equivalence in each area on a forward-looking basis.

The Political Declaration on the future relationship<sup>18</sup> states that both the European Union and the United Kingdom will endeavour to conclude their respective equivalence assessments before the end of June 2020.<sup>19</sup> The Commission shared with the United Kingdom questionnaires covering 28 equivalence areas. By the end of June, only 4 completed questionnaires had been returned. On this basis, the Commission could not conclude its equivalence assessments by the end of June. The Commission will continue the assessments based on further replies that it is currently receiving. The assessments may lead, in each of the areas, to decisions on equivalence or to no equivalence. The Commission will take decisions based on a comprehensive assessment, including of the EU interest.

In a number of areas, the Commission has not initiated an assessment, either because equivalence decisions have already been granted<sup>20</sup> or because, for instance, the EU legal

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<sup>18</sup> See Part IV on 'Financial Services' of the Revised text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom as agreed at negotiators' level on 17 October 2019, OJ C34, 31 January 2020, 1-16.

<sup>19</sup> COM (2019) 349 final. Communication from the Commission, Equivalence in the area of financial services

<sup>20</sup> Areas already granted:

- Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR), as amended; Art. 1(6) - Exemption central banks and public bodies
- Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse (SFTR); Art. 2(4) - Central bank exemption
- Regulation (EU) N° 600/2014 on markets in financial instruments (MIFIR); Art. 1(9) - Central bank exemption

framework is not yet fully in place. With regard to the latter areas<sup>21</sup>, the Commission will not adopt an equivalence decision in the short or medium term.

On the basis of an analysis conducted with the European Central Bank, the Single Resolution Board and the European Supervisory Authorities, and of the preparation undertaken by financial services firms, the Commission has identified only one area which may present financial stability risks, namely the central clearing counterparties (CCPs) of derivatives. Therefore, in the short term and in order to address the possible risks to financial stability, the Commission is considering the adoption of a time-limited equivalence decision for the United Kingdom in this area.

Such a time-limited decision would allow EU-based CCPs to develop further their capacity to clear relevant trades in the short and medium term and EU clearing members to take and implement the necessary steps, including by reducing their systemic exposure to UK market infrastructures.

In order to enhance the supervision and regulation of clearing activities that are of systemic importance for the Union, the EU is currently implementing the EMIR 2.2 Regulation. The Commission is adopting the implementing measures that will determine the degree of systemic risk of third-country CCPs and the necessary measures to strengthen the supervision of such CCPs, as well as the possible need for further measures to mitigate those risks.

#### **Advice to businesses and Member State administrations**

Insurance operators, banks, investment firms, trading venues and other financial services providers should finalise and implement their preparatory measures by 31 December 2020

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- Regulation (EU) No 596/2014 on insider dealing and market manipulation (MAR Market Abuse Regulation); Art. 6(5) - Exemption central banks and public bodies

<sup>21</sup> - Directive 2004/109/EC - Transparency Directive - Accounting Standards; Art. 23(4)[first subparagraph, point (ii)] - General transparency requirements

- Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (Statutory Audit); Art.

45(6) - Equivalence to the international auditing standards of the standards and requirements in the third country

- Regulation (EU) N° 600/2014 on markets in financial instruments (MIFIR); Art. 33(2) - Derivatives: trade execution and clearing obligations; Art. 38(3) - Access for third-country trading venues and CCPs; Art. 47(1) -

Investment firms providing investment services to EU professional clients and eligible counterparties

- Directive 2014/65 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID 2 – recast; Art. 25(4)[a] - Regulated markets for the purposes of easier distribution in the EU of certain financial instruments

- Regulation (EU) No 596/2014 on insider dealing and market manipulation (MAR Market Abuse Regulation); Art. 6(6) - Exemption for climate policy activities

- Regulation (EU) No 236/2012 on short selling and certain aspects of Credit Default Swaps (SSR);

Art. 17(2) - Exemption for market making activities

- Regulation (EU) 2017/1129 of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC; Art. 29(3) - Prospectus rules

at the latest to be ready for the changes that will happen under all scenarios, including wherein their area, there is no equivalence decision taken by the European Union or the United Kingdom.

Union businesses, banks or investors that currently rely on UK service providers should consider how this may affect their operations and take all the necessary steps to prepare for all possible scenarios. EU financial services providers with operations in the United Kingdom should also prepare to abide by all relevant UK rules. EU clearing members of UK CCPs and their clients should take active steps to prepare for all scenarios, including by reducing their systemic exposure to UK market infrastructures.

EU and national supervisors and regulators will need to continue their dialogue with stakeholders with a view to ensuring that all necessary actions for readiness are taken by the end of 2020.

## **B.2. Transport services**

During the transition period, the United Kingdom takes part in the Single Market, including the Single Market for transport services. Therefore, currently, railway services, air transport services, and road haulage operations can be carried out throughout the European Union with one single licence, issued by one Member State. This also benefits EU operators in the United Kingdom during the transition period.

**As of 1 January 2021**, UK companies will no longer be able to perform transport services within the Union as part of the Single Market. The possibilities and conditions for EU and UK transport operators to perform services between the European Union and the United Kingdom will largely depend on the negotiations on the future EU-UK relationship in the area of transport.

However, in any case, **as of 1 January 2021**, licences issued to railway undertakings by the United Kingdom will no longer be valid in the European Union, and certificates or licences issued in the United Kingdom to train drivers will no longer be valid for the operation of locomotives and trains on the EU's railway system.

Railway undertakings from the European Union or the United Kingdom that provide cross-border services between the United Kingdom and the European Union will have to comply with the legal requirements applicable both in the European Union and the United Kingdom. This relates to the license and safety certificate for the railway undertaking, the rolling stock authorisations and personnel (train drivers) licenses. Stakeholders concerned therefore have to ensure that they have valid licences in the European Union for the sections of the cross-border services located in the territory of the European Union, and valid licences in the United Kingdom for the sections of the cross-border services located in the territory of the United Kingdom.



In any case, **as of 1 January 2021**, air carriers holding operating licences granted by the UK licensing authority for the commercial carrying by air of passengers, mail and/or cargo, will no longer be able to provide air transport services within the European Union.

EU air carriers and holders of aviation safety certificates will need to ensure, and uphold compliance with Union requirements, including airlines' requirements on principal place of business and EU majority ownership and control, as well as the Union aviation safety acquis.

Finally, in any case, as **of 1 January 2021**, road transport operators that are established in the United Kingdom will no longer hold a Community licence. They will therefore no longer benefit from the automatic access rights to the Single Market that such a licence entails, and namely the right of EU operators to conduct journeys and carry goods across the Union.

The access rights that EU operators and UK operators will have to each other's respective markets will depend on the outcome of the negotiations between the EU and the United Kingdom. In the absence of an agreement, the limited quotas already available under the mechanism of the European Conference of Ministers of Transport (ECMT) will be available for EU operators to conduct journeys to the United Kingdom, and for UK operators to conduct journeys to the EU.

#### **Advice to businesses and Member State administrations**

All transport businesses conducting operations between the European Union and the United Kingdom must ensure compliance respectively with EU and UK certification requirements as of 1 January 2021.

Access rights for air and road transport between the Union and the UK will largely depend on the outcome of the negotiations with the United Kingdom.

In any case, transport operators will be affected by changes in the formalities required when crossing the UK-EU border.<sup>22</sup> Beyond sector specific transport rules, administrations of EU Member States should step up awareness-raising, targeting SMEs in particular, on how border formalities will affect transport and logistics operators going forward, as well as passengers and cross-border workers. This also includes border checks on persons – entailing the verification of entry and stay requirements, stamping of passports, and visa requirements if applicable.

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<sup>22</sup> With the exception of Northern Ireland, which, in accordance with the Protocol on Ireland and Northern Ireland will remain aligned to a limited set of Union rules, so as to avoid customs checks and controls on the island of Ireland.

### **B.3. Audiovisual services**

During the transition period, the United Kingdom takes part in the Single Market for audiovisual services. Therefore, currently, the country-of-origin principle applies, whereby any service provider that is established in a Member State and conforms to the rules of that state's national regulator benefits from the freedom of reception rule, and is able to broadcast content to any other Member State without having to seek approval by that other Member State.

**As of 1 January 2021**, businesses established in the United Kingdom will no longer be able to benefit from the country-of-origin principle of the Audiovisual and Media Services Directive.

As a result, UK-based audiovisual media service providers will need to comply with each of the rules of the relevant Member State in which they would want to provide their services.

#### **Advice to businesses and Member State administrations**

Audiovisual media service providers established in the United Kingdom and supplying audiovisual media services to the European Union should take the necessary measures to ensure compliance with each of the national regimes where they intend to provide services. EU providers wishing to supply services in the United Kingdom will need to abide by UK rules.

### **B.4. Recognition of professional qualifications**

During the transition period, the United Kingdom takes part in the EU Single Market, including the freedom of establishment, the free movement of persons and the free provision of services. Therefore, currently, UK nationals and EU citizens holding a qualification in the United Kingdom benefit from a simplified – in some cases automatic – recognition regime in other EU countries, which allows professionals such as doctors, nurses, dental practitioners, pharmacists, veterinary surgeons, lawyers, architects or engineers to move and provide services across the European Union and the in the United Kingdom during the transition period.

**As of 1 January 2021**, the United Kingdom will no longer be covered by Union rules on the recognition of professional qualifications, and the recognition of qualifications obtained in EU Member States by the United Kingdom will be a matter of UK law.

UK nationals, irrespective of where they acquired their qualifications, and EU citizens with qualifications acquired in the United Kingdom will need to have them recognised in the

relevant Member State on the basis of that country's rules for third-country nationals and/or third-country qualifications as of the end of the transition period.<sup>23</sup>

#### **Advice to persons, businesses and Member State administrations**

Persons concerned should seek to obtain recognition of their UK qualification in the European Union before 1 January 2021 in order to be prepared for the end of the transition period. Businesses decisions should take into account that from January 2021, after the end of transition, such recognition will happen in the relevant Member State on the basis of that country's rules for third-country nationals and/or third-country qualifications.

### **C. Energy**

During the transition period, the United Kingdom takes part in the integrated Union energy market. Therefore, EU-UK trading of energy products via electricity and gas interconnectors is currently managed through dedicated Union platforms.

**As of 1 January 2021**, although electricity and gas interconnectors can of course still be used, the United Kingdom will no longer participate in the Union's dedicated platforms. Alternative fall-back solutions will be used instead to trade electricity on interconnectors with Great Britain.<sup>24</sup> These should allow electricity trade to continue, although not with the same level of efficiency as within the Single Market today.

#### **Advice to businesses and Member State administrations**

Businesses and Member State administrations should take into account that, from January 2021, trades over electricity interconnectors with Great Britain will not be managed through Union platforms and will become third country energy flows. Stakeholders concerned should consider necessary measures to adapt to the new regulatory environment.

### **D. Travelling and tourism**

#### *Checks on persons*<sup>25</sup>

During the transition period, UK nationals are treated like Union citizens. Therefore, UK nationals currently benefit from freedom of movement when entering the European Union and the Schengen area.

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<sup>23</sup> However, persons falling under the scope of Part Two of the Withdrawal Agreement will benefit from the application of EU Single Market rules in respect of the procedures for recognition which are ongoing on 31 December 2020.

<sup>24</sup> This does not apply to the electricity interconnectors between Northern Ireland and Ireland, given that under Article 9 of the Withdrawal Agreement, Northern Ireland will continue to participate in the Integrated Single Electricity Market across the island of Ireland.

<sup>25</sup> This section (checks on persons) does not apply to travels between the UK and Ireland, given that, under the Protocol on Ireland and Northern Ireland, 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.

**As of 1 January 2021**, UK nationals travelling to the European Union and the Schengen area will be treated as third-country nationals, and therefore subject to thorough checks at the Schengen area border. This means that intended stays on the territory of EU Member States cannot have a duration of more than 90 days in any 180-day period, and UK nationals will have to meet the entry conditions for third-country nationals. They can also no longer make use of the EU/EEA/CH lanes reserved for persons enjoying the right to free movement when crossing the border.

#### *Visa requirements*

During the transition period, UK nationals are treated like Union citizens. Therefore, they are not subject to any visa requirements in the European Union, in particular when crossing Schengen borders.

Recent EU preparedness legislative measures have ensured that, **as of 1 January 2021**, UK nationals will remain exempt from the requirement to be in possession of visas when crossing the European Union's external borders for short-term stays (up to 90 days in any 180-day period). This visa exemption does not provide for the right to work in the Union and is subject to the reciprocity mechanism applying to third countries, i.e. it could be suspended if Union citizens would cease to be given visa-free access to the United Kingdom for short stays.

Visa rules will also change for certain third-country nationals residing in the UK when they travel to the Union. For example, as of 1 January 2021, UK residence documents will no longer exempt the holder from airport transit visa requirements in the Union, and school pupils residing in the United Kingdom will no longer automatically benefit from visa-free access to the Union when going on school excursions.

#### *Travelling with pets*

During the transition period, pet owners resident in the United Kingdom can use the 'EU pet passport' to facilitate travel in the European Union with their pets.

**As of 1 January 2021**, an EU pet passport issued to a pet owner resident in the United Kingdom will no longer be a valid document for travelling with pets from the United Kingdom to any of the EU Member States. The requirements for pets accompanying those travelling from the United Kingdom in the future will be set by the Union.

#### *Driving licences*

During the transition period, Union law on the recognition of driving licenses across the European Union applies. Therefore, currently, holders of UK-issued driving licences can continue to drive in the EU without additional documentation.

**As of 1 January 2021**, driving licenses issued by the United Kingdom will no longer benefit from mutual recognition under Union law. The recognition of driving licences issued by the United Kingdom will be regulated at Member State level. In Member States that are Contracting Parties to the 1949 Geneva Convention on Road Traffic, this Convention will

apply. For further information the responsible authority of the respective Member State should be consulted.

### *Roaming*

During the transition period, Union law on roaming applies with respect to the United Kingdom. Therefore, currently, the regulation ensuring roaming without additional charges applies vis-à-vis and in the United Kingdom.

**As of 1 January 2021**, access for United Kingdom consumers to Roam-Like-At-Home in the European Union will no longer be guaranteed by Union law; nor will it be guaranteed for Union consumers travelling to the United Kingdom.

Both United Kingdom and EU mobile operators will thus be able to apply a surcharge on roaming customers.

### *Passenger rights*

During the transition period, Union law on passenger rights for air, rail, bus, coach and ship, including assistance to passengers with disabilities or reduced mobility, continues to apply to passengers departing from the United Kingdom to an EU Member State, irrespective of whether the carrier is a UK or a Union carrier.

**As of 1 January 2021**, the level of protection of passengers travelling between the EU and the United Kingdom will be affected. Depending on the transport mode, passengers may no longer be protected by EU passenger rights when travelling to or from the United Kingdom.

### **Advice to persons, businesses and Member State administrations**

People travelling should take into account changes relating to border checks, visa requirements, pet passports, driving licences and roaming charges when travelling to and from the United Kingdom.

Businesses supplying travel services should get acquainted with the changes, and may need to adapt processes accordingly.

National authorities must make sure that there is sufficient staff available at border crossing points, and if need be adapt infrastructure. They should also make sure that passengers and travelers are well informed about any changes to their rights and obligations.

## **E. Mobility and social security coordination**

During the transition period, UK nationals continue to benefit from the free movement of persons in the Union. EU citizens can also still use their free movement rights to go and work, study, start a business or live in the United Kingdom. All Union rules on the coordination of social security systems also apply and will – under the terms of the Withdrawal Agreement – continue to apply, even after the end of the transition period, to

people who were in a cross-border situation involving the United Kingdom and the European Union before the end of transition period. The Withdrawal Agreement also protects the residence and work rights of EU citizens lawfully residing in the United Kingdom and of UK nationals lawfully residing in an EU Member State at the end of the transition period and the members of their families.<sup>26</sup>

**As of 1 January 2021**, free movement between the European Union and the United Kingdom ends. This will have repercussions on the ease of mobility for all EU citizens who are not beneficiaries of the Withdrawal Agreement and wish to stay in the United Kingdom for longer periods, be they students, workers, retired people or their family members. All their movements to the United Kingdom will be governed by UK immigration laws. UK companies wanting to recruit EU citizens will have to follow UK rules that do not apply today under the Union regime. All movements to the EU of UK nationals who are not beneficiaries of the Withdrawal Agreement will be governed by Union and Member States' migration rules. EU companies wanting to recruit UK nationals will have to follow the relevant rules for third-country nationals of the Union and their respective Member States.

For those EU citizens who will exercise some form of mobility under the new UK regime, the current coordination of social security systems foreseen by Union regulations will cease to exist. The same will be true for UK nationals in the EU, unless they are covered by specific Union rules related to third-country nationals. There will not be the same extensive cross-border social security protection as under current Union rules, as Union rules will no longer apply. Even under a future partnership agreement with the United Kingdom, only certain social security entitlements could potentially be ensured. The exact terms that will apply depend on the outcome of negotiations between the European Union and the United Kingdom on the future partnership, for instance on health care costs or pension rights.

## **F. Company law and civil law**

### **F.1. UK-registered companies**

During the transition period, the United Kingdom takes part in the Single Market, which includes the fundamental freedom of establishment. Therefore, currently, a company may be registered in the United Kingdom while having its central administration or the principal place of business in an EU Member State.

**As of 1 January 2021**, UK incorporated companies will be third-country companies and will not automatically be recognised under Article 54 of the TFEU. Their recognition will become subject to national law for third country-incorporated companies.

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<sup>26</sup> Union citizens, except those with Irish citizenship, need to apply to obtain "settled" or "pre-settled" status under the United Kingdom's Union Settlement Scheme.

Branches in EU Member States of UK incorporated companies will be branches of third-country companies. Subsidiaries of UK companies in the Union are, in principle, EU companies and will continue to be covered by all relevant Union and national legislation.

**Advice to businesses and Member State administrations**

In case companies incorporated in the United Kingdom wish to become EU companies, they should take all the necessary steps to incorporate in an EU Member State.

**F.2. Contractual choice of jurisdiction**

During the transition period, the United Kingdom takes part in elements of the European civil judicial area.<sup>27</sup> Therefore, currently, judgements in both civil and commercial matters that are handed down by a UK court are swiftly enforceable in the European Union. In practice, commercial contracts often establish UK jurisdiction for litigation.

**As of 1 January 2021**, Union rules facilitating the cross-border recognition and enforcement of judgements in the EU and in the United Kingdom during the transition period will no longer apply.<sup>28</sup> Should the United Kingdom accede to the 2005 The Hague Convention on Choice of Court Agreements in its own right after the end of the transition period, this Convention would only apply to the recognition and enforcement of judgments given by courts designated in exclusive choice of court agreements concluded after the United Kingdom has become party to that Convention. Thus, for the time being, the recognition and enforcement of UK judgments will be governed by the national rules of the Member State in which recognition/enforcement is sought.

**Advice to businesses and Member State administrations**

All businesses are advised to consider this situation when assessing contractual choices of international jurisdiction.

Businesses should be aware that judgments handed down by a UK court might no longer be swiftly enforceable in the European Union compared to today's situation.

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<sup>27</sup> While the United Kingdom continues to apply the Union's Justice and Home Affairs policy during the transition period, it has enjoyed the right to opt-out in this field and it never opted to participate in all instruments in the field of judicial cooperation in civil and commercial matters.

<sup>28</sup> It is also noteworthy that, as of 1 January 2021, the EU Online Dispute Resolution (ODR) platform will no longer be available for the out-of-court resolution of disputes between consumers residing in the European Union and traders established in the United Kingdom.

## G. Other aspects: Data, digital and intellectual property rights

### G.1. Intellectual property

During the transition period, the United Kingdom takes part in the EU Single Market. Therefore, currently, a holder of an intellectual property right, such as an EU trademark, cannot invoke such a trademark to oppose the shipment of goods from the United Kingdom to the European Union, so long as the goods have been put on the UK market under that trademark by the right-holder or with its consent ('principle of exhaustion' of the rights conferred by the intellectual property right), and vice versa.

**As of 1 January 2021**, traders in the European Union can no longer invoke exhaustion vis-à-vis right-holders when sourcing products from the United Kingdom.

#### **Advice to businesses and Member State administrations**

Businesses engaged in parallel trade from the United Kingdom should re-visit their business arrangements.

In addition, **as of 1 January 2021**, while existing EU unitary intellectual property rights (EU trademarks, Community designs, Community plant variety rights and geographical indications) remain protected under the Withdrawal Agreement, any new EU unitary rights will have a reduced territorial scope as they will no longer have effect in the United Kingdom.<sup>29</sup>

#### **Advice to businesses and Member State administrations**

Stakeholders concerned should take the necessary measures to ensure protection in the United Kingdom of future intellectual property rights, where relevant.

### G.2. Data transfers and protection

During the transition period, the United Kingdom is bound by Union data protection legislation. Therefore, currently, personal data can be transmitted from the European Union to the United Kingdom without any restrictions.

**As of 1 January 2021**, transfers of personal data to the United Kingdom can continue, but they will have to comply with specific Union rules and safeguards relating to the transfer of personal data to third countries, as set out in the EU General Data Protection Regulation (GDPR)<sup>30</sup> or in the Law Enforcement Directive.<sup>31</sup>

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<sup>29</sup> Existing unitary rights are safeguarded in the United Kingdom under Articles 54 and 57 of the Withdrawal Agreement by being converted into United Kingdom rights.

<sup>30</sup> Regulation (EU) 2016/679, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1594051658864&uri=CELEX:32016R0679>



In particular, Chapter V of the GDPR provides for a number of tools ensuring that, when transferring personal data to third countries, the level of protection of natural persons guaranteed within the Union is not undermined. Among those tools, the European Union can adopt a unilateral ‘adequacy’ decision, on the basis of Article 45 of the General Data Protection Regulation, if it deems that the third country offers an adequate level of data protection.

As underlined in the Political Declaration,<sup>32</sup> the EU will use its best endeavours to conclude the assessment of the UK regime by the end of 2020 with a view to possibly adopting a decision if the United Kingdom meets the applicable conditions. The Commission is currently conducting this assessment and has held a number of technical meetings with the United Kingdom to gather information in order to inform the process. On the side of the United Kingdom, its Data Protection Act conferred adequacy on EU Member States until the end of 2024, with the need to be re-examined by that date.

#### **Advice to businesses and Member State administrations**

Businesses and public administrations should take the necessary steps to ensure the compliance of any personal data transfers to the United Kingdom with Union data protection law, irrespective of the scenario whereby an EU adequacy decision will be taken with regard to the United Kingdom. Compliance can be achieved by having appropriate safeguards in place as foreseen by the General Data Protection Regulation, including binding corporate rules, or through specific derogations.

### **G.3. .eu domain name**

During the transition period, Union law on the .eu top-level domain names applies with respect to the United Kingdom. Businesses established in the United Kingdom and UK citizens and residents remain eligible to register and hold a .eu domain name.

**As of 1 January 2021**, businesses that are established in the United Kingdom, but not in the European Union, and UK residents who are not EU citizens will no longer be eligible to register or hold .eu domain names.

If these persons are not able to demonstrate their continued eligibility to be holders of .eu domain names, their domain names will be withdrawn<sup>33</sup> after the end of the transition period. However, EU citizens residing in the United Kingdom will be able to hold .eu domain names, or register new ones, even after the end of the transition period.

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<sup>31</sup> Directive (Union) 2016/680, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0680>

<sup>32</sup> See Part I.I.B on ‘Data protection’ of the Revised text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom as agreed at negotiators’ level on 17 October 2019, OJ C34, 31 January 2020, 1-16.

<sup>33</sup> A withdrawn domain name no longer functions. It can no longer support any active service, such as websites or emails.

## H. International agreements of the European Union

During the transition period, the United Kingdom continues to be bound by international agreements concluded by the European Union. Moreover, the European Union has informed its international partners that the United Kingdom is treated, during the transition period, like a Member State, for the purposes of those agreements.

**As of 1 January 2021**, the United Kingdom will no longer be covered by the agreements concluded by the Union, or by Member States acting on behalf of the Union, or by the Union and its Member States jointly. The European Union informed its international partners of the consequences of the United Kingdom's withdrawal from the Union by way of a 'Note Verbale' sent after signature of the Withdrawal Agreement.<sup>34</sup>

As a consequence, the United Kingdom, including UK nationals and economic operators, will no longer be able to benefit from several hundred international agreements of the Union such as Free Trade Agreements, mutual recognition agreements, veterinary agreements or bilateral agreements in relation to air transport or aviation safety. Businesses established in the Union will of course continue to benefit from all existing Union international agreements.

This is without prejudice to the status of the United Kingdom in relation to multilateral agreements to which it is a party in its own right. For instance, the United Kingdom will remain a member of the World Trade Organization in its own right and will be covered by the relevant World Trade Organization agreements in relation notably to its concessions and commitments regarding trade in goods, services or intellectual property rights.

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<sup>34</sup> [https://ec.europa.eu/info/sites/info/files/model-note-verbale-international-partners\\_en.pdf](https://ec.europa.eu/info/sites/info/files/model-note-verbale-international-partners_en.pdf)

### III. Preparing for any scenario

**The changes described in part II of this Communication will happen in any case**, whether the European Union and the United Kingdom agree on an ambitious new partnership by 31 December 2020, or not.

It is nonetheless clear that failing to reach an agreement would lead to disruptions that would be more far-reaching than the changes outlined in part II. In case of no agreement, each side's 'Most Favoured Nation' tariffs would apply to exports from the other side; that is, goods imported from the United Kingdom into the Union would be levied the EU's "Common Customs Tariff", while goods imported from the Union into the United Kingdom would be subject to UK tariffs.<sup>35</sup>

This Communication does not seek to prejudge the outcome of the ongoing negotiations between the European Union and the United Kingdom. In this respect, its main focus is on issues that are not currently under negotiation. The Commission acknowledges that this leaves considerable uncertainty for public administrations, citizens, businesses and other stakeholders across the economy and society. One example of such uncertainty is what will happen with a possible UK participation in Erasmus+ and Horizon Europe as of January 2021. Only the outcome of ongoing negotiations can lift such uncertainty.

The consequences of failing to agree on a new partnership by 31 December 2020 would be significant. Nevertheless, the Commission notes that the 'no deal' scenario on the future relationship would differ from the 'no deal' scenario during the negotiations on the United Kingdom's withdrawal from the European Union, and this for several reasons:

1. Firstly, the **Withdrawal Agreement provides legal certainty** in a number of important areas where the United Kingdom's withdrawal from the Union created uncertainty. This includes the protection of citizens' rights, the financial settlement, the establishment of a legally operative solution to avoid a hard border on the island of Ireland, the continued protection of the stock of EU unitary intellectual property rights (including existing geographical indications), and provisions for an orderly winding down of all ongoing procedures between the EU and the United Kingdom (see Box).
2. Secondly, **the transition period set out in the Withdrawal Agreement provides stakeholders with additional, albeit limited, time to prepare** for any scenario, including one where there is no agreement on a future partnership in place by 1 January 2021.

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<sup>35</sup> The United Kingdom has published information on its new UK Global Tariff that would be applicable from 1 January 2021 also to EU goods in case of there being no agreement on the future EU-UK relations. <https://www.gov.uk/guidance/uk-tariffs-from-1-january-2021>

3. Thirdly, a limited number of **Union legislative measures adopted in 2019 in view of preparedness for any scenario in terms of the United Kingdom's withdrawal from the EU, will remain in force or become applicable at the end of the transition period.** They include, for example, the listing of the United Kingdom as a third country whose nationals are exempt from the visa requirement for short-term stays, as well as the apportionment of the EU's WTO tariff rate quotas (TRQs) between the European Union and the United Kingdom.

Taking all the above into consideration, the Commission will continue to monitor closely the situation and will endeavour to protect the interests of the European Union, of its citizens and its economy in any scenario.

#### **BOX: The Withdrawal Agreement, including the Protocol on Ireland and Northern Ireland**

The Withdrawal Agreement concluded between the European Union and the United Kingdom entered into force on 1 February 2020.

It includes detailed provisions aimed to limit the impact of the United Kingdom's withdrawal from the European Union and its Single Market and the Customs Union, in particular in the following areas:

**Citizens' rights:** The Withdrawal Agreement protects the rights of EU citizens lawfully residing under Union law in the United Kingdom at the end of the transition period, as well as of UK nationals lawfully residing under Union law in one of the EU Member States at the same point in time, and of their family members, to continue to live, study and work in their respective host States.<sup>36</sup>

**Financial settlement:** The Withdrawal Agreement provides that the United Kingdom and the European Union will honour all financial obligations undertaken while the United Kingdom was a member of the European Union, also for commitments that give rise to actual spending occurring after 2020.<sup>37</sup>

**Protocol on Ireland and Northern Ireland:** The Protocol on Ireland and Northern Ireland will become applicable at the end of the transition period and represents a stable solution that will continue to apply alongside any agreement on the future partnership, subject to the

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<sup>36</sup> For detailed information, see the Commission Guidance Note (2020/C 173/01) on Part II of the Withdrawal Agreement [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0520\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0520(05)&from=EN)

<sup>37</sup> Article 138 of the Withdrawal Agreement provides that, in respect of the implementation of the Union programmes and activities committed under the Multiannual Financial Framework 2014-2020 or previous financial perspectives, applicable Union law continues to apply to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities. UK participation in future programmes depends on the new partnership agreement unless the programme exceptionally allows for participation of third countries and their entities without requiring an agreement.

future consent by the Northern Ireland Assembly to its continued application.

It provides a legally operative solution that avoids a hard border on the island of Ireland, protects the all-island economy and the Good Friday (Belfast) Agreement in all its dimensions, and safeguards the integrity of the EU Single Market as well as the UK internal market.

In accordance with this Protocol, Northern Ireland will remain aligned to a limited set of Union rules, notably related to goods, and the Union Customs Code, VAT and excise rules will apply to all goods entering or leaving Northern Ireland. This avoids any customs checks and controls on the island of Ireland.

**Checks and controls** will take place on goods entering Northern Ireland from the rest of the United Kingdom, for example on food products and live animals to ensure adherence to sanitary and phytosanitary ('SPS') requirements. All goods entering or leaving Northern Ireland must fully comply with relevant Union rules and standards.

**EU customs duties** will apply to goods entering Northern Ireland unless the Joint Committee sets out a framework of conditions under which these goods are considered not to be at risk of entering the EU's Single Market. Based on such a framework, no customs duties will be payable if it can be demonstrated that goods entering Northern Ireland from the rest of the UK are not at risk of entering the EU's Single Market.

Union customs formalities and procedures will apply to goods brought into Northern Ireland from the outside of the EU or exported from Northern Ireland.

EU VAT and excise rules apply to goods entering (or leaving) Northern Ireland from (or to) the rest of the UK.

**Separation issues:** The Withdrawal Agreement also ensures an orderly winding-down of existing arrangements with regard to matters on-going at the time of withdrawal:

- it enables goods placed on the market before the end of the transition period to continue to be further made available on the EU or UK market until they reach their end-user, with no need for re-certification, re-labelling or product modifications;
- it provides for processes for managing and terminating ongoing intra-Union movements of goods, ongoing customs procedures as well as VAT and excise duty matters;
- it protects existing unitary intellectual property rights, including the existing stock of EU geographical indications;
- it winds down public procurement procedures ongoing at the time of the end of the transition period and guarantees the rights of those concerned by the procedures under Union law;
- it includes provisions for winding down ongoing police and judicial cooperation in criminal matters;
- it includes provisions for winding down administrative and judicial procedures (e.g.

state aid and infringement cases);

- it addresses the use of data and information exchanged before the end of the transition period and makes sure that data transferred before the end of transition period remain protected under the principles and provisions foreseen by Union law;
- it provides for the disconnection of the UK from networks, information systems and databases established on the basis of Union law at the end of the transition period, in particular those networks that are only accessible to Union Member States or the Schengen associated countries;
- it deals with ongoing judicial cooperation on commercial matters in order to make sure court judgements can be relied upon;
- it addresses all issues related to the United Kingdom's departure from Euratom.

With regard to the implementation of the Withdrawal Agreement, the Joint Committee, which oversees the application of the Withdrawal Agreement, has been established. It is co-chaired by European Commission Vice-President Maroš Šefčovič and the UK Chancellor of the Duchy of Lancaster, the Rt Hon Michael Gove and has met twice (by teleconference), on 30 March and on 12 June 2020. The Specialised Committees on Gibraltar, Citizens' Rights, Financial Provisions, the Sovereign Base Areas in Cyprus and the Protocol on Ireland / Northern Ireland have begun their work.

## IV. Conclusion: Readiness is key

The European Union will do its utmost to reach an ambitious future agreement with the United Kingdom.

However, this Communication shows that, even in case of the most ambitious future partnership – based on the European Union’s negotiating directives for a new partnership with the United Kingdom,<sup>38</sup> adopted on 25 February 2020, and on the draft text of the Agreement on the New Partnership between the European Union and the United Kingdom,<sup>39</sup> published on 17 March 2020 – **there will be far-reaching and automatic changes and consequences for citizens, consumers, businesses, public administrations, investors, students and researchers, as of 1 January 2021.**

These changes are unavoidable – whatever the outcome of the ongoing negotiations – due to the United Kingdom’s decision to withdraw from the European Union, its Single Market and Customs Union. Free movement of persons, goods and services as provided by Union law will cease to apply at the end of the transition period. This will have wide-ranging effects in particular for cross-border trade of goods and services, as well as for the mobility of people.

The Commission therefore calls on all public administrations, citizens, businesses and other stakeholders to make sure they are ready for those unavoidable changes. Failing to take such preparatory measures will increase the negative impact and cost to their operations at the end of the transition period.

It is ultimately for businesses and other stakeholders to undertake their own risk assessment and implement their own readiness actions in light of their individual situation, but no one should underestimate the logistical challenges that will occur as of 1 January 2021, in addition to the legal changes described in this Communication.

The Commission calls on Member States to continue national communication and awareness-raising activities encouraging public administrations, citizens, businesses and stakeholders to take the necessary measures for readiness. These efforts need to be adapted to the situation of stakeholders in the individual Member States. Over the coming months the Commission will work with all Member States in order to review their readiness for all aspects, and to facilitate awareness-raising efforts by public administrations towards their stakeholders.

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<sup>38</sup> <https://www.consilium.europa.eu/media/42736/st05870-ad01re03-en20.pdf>

<sup>39</sup> Draft text of the Agreement on the New Partnership between the European Union and the United Kingdom, published on 17 March 2020, see: [https://ec.europa.eu/info/publications/draft-text-agreement-new-partnership-united-kingdom\\_en](https://ec.europa.eu/info/publications/draft-text-agreement-new-partnership-united-kingdom_en)

Stakeholders are also invited to re-consult the notices that were published during the Article 50-negotiations with the United Kingdom and to consult the Commission's readiness webpages for further updates of previous preparedness notices. The Commission will work with all relevant stakeholder associations to draw their attention to this information.

Finally, the Commission calls on all consumer, business and trade associations, national as well as European, to make sure that their members are fully aware of the changes that will occur irrespective of the future relationship with the United Kingdom.



### **Annex 1: List of Updated Notices on Readiness for end of transition**

The following 59 readiness notices have been published since 16 March 2020 with a view to supporting stakeholder preparations for the end of the transition period. They can be found here: <https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/getting-ready-end-transition-period>

This list will continue to be updated on a regular basis as new notices become available.

- Air transport
- Animal breeding (zootecnics)
- Animal transport
- Asset management
- Audiovisual media services
- Aviation and maritime security
- Aviation safety
- Banking and payment services
- Biocidal products
- Chemicals (REACH)
- Clinical trials
- Company law
- Consumer protection and passenger rights
- Copyright
- Cosmetic products
- Credit rating agencies
- Data protection
- E-commerce
- E-signature (electronic identification and trust services for electronic transactions)
- Electronic communications, incl. roaming
- Emissions trading system
- .eu domain names
- EU Ecolabel
- European Works Council
- Excise duties
- Exhaustion of intellectual property rights
- Feed
- Food law
- Genetically-modified organisms
- Geo-blocking
- Geographical indications
- Good laboratory practice (GLP)
- Industrial products

- “Invasive alien species”
- Maritime transport
- Medicinal products (human use, veterinary)
- Movements of live animals
- Natural mineral waters
- Online purchase with subsequent parcel delivery
- Organic products
- Plant health
- Plant protection products
- Plant reproductive material
- Plant variety rights
- Prohibitions and restrictions of import/export (incl. import/export licenses)
- Protection of animals at the time of killing
- Pyrotechnic articles
- Rail transport
- Recreational craft and personal watercraft
- Security of network and information systems
- Ship recycling
- Substances of human origin (blood, tissues and cells, organs)
- Supplementary protection certificates for medicinal products and plant protection products
- Tobacco products
- Trade marks and designs
- Transportable pressure equipment
- Value Added Tax (VAT – Goods)
- Value Added Tax (VAT – Services)
- Waste shipments

