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PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN
CENTRAL BANK, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,
THE COMMITTEE OF THE REGIONS AND THE EUROPEAN INVESTMENT
BANK**

**Preparing for the withdrawal of the United Kingdom from the European Union on 30
March 2019: a Contingency Action Plan**

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**Preparing for the withdrawal of the United Kingdom from the European Union on 30
March 2019: a Contingency Action Plan**

*The European Council renews its call upon Member States, Union institutions and
all stakeholders to step up their work on preparedness at all levels and for all outcomes.*

European Council (Article 50), 29 June 2018¹

1. Introduction

The United Kingdom has decided to leave the European Union, invoking the procedure foreseen by Article 50 of the Treaty on European Union. The Commission regrets this decision, but respects it.

On 30 March 2019², the United Kingdom will become a third country. All Union primary and secondary law will cease to apply to the United Kingdom from that moment, unless a ratified withdrawal agreement establishes another date.

As emphasised in the Commission's first Brexit preparedness Communication of 19 July 2018³, irrespective of the scenario envisaged, the United Kingdom's choice will cause significant disruption. The Commission has therefore consistently called on European citizens, businesses and Member States to prepare for all possible scenarios, assess relevant

¹ <https://www.consilium.europa.eu/media/35966/29-euco-art50-conclusions-en.pdf>.

² The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement establishes another date or, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, unanimously decides that the Treaties cease to apply at a later date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00 (CET). At this moment in time the Commission has received no indication that the United Kingdom may request a prolongation of its EU membership.

³ COM(2018) 556 final/2.

risks and plan their response in order to mitigate them. On 29 June 2018, the European Council renewed its call to Member States, Union institutions and all stakeholders to step up their work on preparedness at all levels and for all outcomes⁴.

The purpose of this Communication is to address this call, focusing on a no-deal scenario. It identifies key areas and key actions to be taken, as well as a structure for discussions and Member State coordination between November 2018 and 29 March 2019.

Since May 2017, the EU and the United Kingdom have been negotiating a withdrawal agreement. Progress on a legal text, including on arrangements for a transition period until 31 December 2020, was made at negotiators' level and made public on 19 March 2018⁵. Further progress was reported in a joint statement of the Commission and the UK negotiators on 19 June 2018.⁶ On 17 October 2018, the European Council (Article 50) called on the Commission as the Union negotiator to continue its efforts to reach an agreement in accordance with previously agreed European Council guidelines. These negotiations are ongoing and the Commission as Union negotiator remains committed to reaching an agreement for an orderly withdrawal. While progress has been achieved in many respects, and despite the significant efforts and intensive negotiations, some areas of disagreement remain. In addition, reaching an agreement with the UK Government is not a guarantee that the United Kingdom will ratify the Withdrawal Agreement by 29 March 2019.

2. Need to prepare – action at EU level

Work to prepare for the withdrawal of the United Kingdom **is ongoing in parallel to the negotiations**. The Commission will continue to play its part in full.

The Commission has **screened the EU *acquis***, i.e. the existing rules under EU law, to determine which rules must be adapted in any scenario and which measures will have to be put in place only in the case of a no deal scenario. As a result of this screening, the Commission has tabled eight **legislative preparedness proposals** for measures that must be adopted irrespective of whether the United Kingdom's withdrawal is orderly or otherwise. These measures are presented in Annex 1. Examples include adjustments to the rules of approval of automotive vehicles or in relation to ship inspection organisations, and the apportionment between the United Kingdom and the EU27 of tariff rate quotas included in the goods schedule of the European Union at the World Trade Organisation. In parallel to this Communication, the Commission has adopted the last two of these proposals, namely a proposal to adapt references to EU energy efficiency targets (expressed in absolute values) for 2030 and a proposal on the rules on visa that will apply to UK nationals after the withdrawal of the United Kingdom from the Union⁷.

In addition, a number of **implementing and delegated acts** that are also necessary in any scenario have been adopted or are being prepared. Examples of these include the treatment of the United Kingdom in the context of statistical data, the reattribution of *rapporteurship* for the assessment of certain chemicals from the United Kingdom to another Member State, and

⁴ <https://www.consilium.europa.eu/media/35966/29-euco-art50-conclusions-en.pdf>

⁵ https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-united-kingdom-great-britain-and-northern-ireland-european-union-and-european-atomic-energy-community-0_en
https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf

⁶ https://ec.europa.eu/commission/sites/beta-political/files/joint_statement.pdf

⁷ See below the section on citizens.

amendments of marketing authorisations of medicines. These acts are all targeted and Brexit-specific and are presented in Annex 2.

The Commission is also working with **relevant agencies**. Given the specific circumstances in the aviation sector, for example, the Commission has invited the European Aviation Safety Agency (EASA) to start processing certain applications from UK entities in preparation for the time when the United Kingdom will not be a Member State. The European Medicines Agency (EMA) has conducted several surveys and, where necessary, has contacted holders of EU marketing authorisations to recall the need to take the necessary preparedness measures. The European Chemicals Agency (ECHA), the Community Plant Variety Office (CPVO), and EMA have re-attributed regulatory functions from the United Kingdom to other Member States.

In addition, the Union is taking all necessary steps to ensure that EU agencies and bodies located in the United Kingdom (such as the European Medicines Agency, the European Banking Authority, the North Sea Advisory Council, the back-up site of the Galileo Security Monitoring Centre and the Operational Headquarters) are re-located to the EU27 before the withdrawal date.

In the interest of the Union, the Commission is also supporting the United Kingdom in securing its accession to the Common Transit Convention as a non-EU transit country, provided that it is ready to meet the requirements of the Convention, as well as its accession to the Convention on the simplification of formalities in trade in goods. For the same reason, the Commission also supports the United Kingdom's accession to the Government Procurement Agreement.

Other work strands are in place, including very practical aspects of internal EU preparedness, such as the disconnection and adaptation of databases and IT systems and other platforms for communication and information exchange to which the United Kingdom should no longer have access.

Furthermore, the Commission has continued to **discuss preparations for the withdrawal with the EU27 Member States**, both general issues of preparedness and specific sectorial, legal and administrative preparedness steps. Member States and the Commission are intensifying this work through the sectoral seminars organised by the Council Working Party (Art. 50).

3. Need to prepare – actions by citizens, businesses and Member States

As underlined in the Commission's first Brexit preparedness Communication of 19 July 2018, preparedness for the withdrawal of the United Kingdom must be a joint effort of the European Union, national, regional and local levels, as well as by economic operators and citizens. In order to be prepared for the withdrawal and to mitigate the worst impact of a potential cliff-edge scenario, all actors must assume their responsibilities.

Measures by the EU27 Member States

Member States have started preparing the withdrawal of the United Kingdom by **identifying the need for adaptations of their legislation and for administrative and practical measures**. These efforts must be intensified and their implementation prioritised. National

measures, including the necessary increase in **human resources** (such as customs officers and official veterinarians) and putting in place, adjusting or strengthening the necessary infrastructures (for example in ports and airports), represent a central element of contingency planning.

Member States, including national authorities, will play a key role in implementing and enforcing EU law vis-à-vis the United Kingdom as a third country. This includes performing the necessary border checks and controls and processing the necessary authorisations and licences. Brexit will also see the re-emergence of a maritime border in the North Sea and in the North Atlantic. Additional efforts will be needed by Member States and through regional cooperation to ensure the effective monitoring and control of activities in Union waters. Member States should ensure that this work is completed in time for the withdrawal, bearing in mind that these infrastructures would in any case need to be adjusted or strengthened in time for the expiry of any transitional period.

The Commission is working with Member States to **coordinate** the measures they adopt to ensure that contingency preparations are consistent within the European Union and in conformity with the general principles presented below⁸. In the same spirit, Member States **should refrain from bilateral discussions and agreements** with the United Kingdom, which would undermine EU unity.

As regards the need for **financial resources** and/or technical assistance, the existing State aid rules make it possible to address problems encountered by businesses in the case of a "no deal" Brexit. By way of example, State aid rules permit consultancy aid for small and medium-sized enterprises (SMEs) or training aid which could be used to assist with SMEs preparedness (including possible future custom formalities). The Rescue and Restructuring Guidelines contain provisions on temporary restructuring support schemes for SMEs, which could be useful to address their liquidity problems caused by Brexit. Access to finance is possible in various formats, e.g. through State-financed lending schemes respecting the reference rate or State guarantees under the guarantee notice.

The Commission stands ready to engage as of now with the Member States that will be most affected by a disorderly withdrawal and explore pragmatic and efficient support solutions, in line with EU State aid law. In particular, the Commission will support Ireland in finding solutions addressing the specific challenges of Irish businesses.

Technical and financial assistance from the European Union can also be made available in certain areas, such as the training of customs officials under the Customs 2020 programme. Other programmes can help similar training projects in the area of sanitary and phytosanitary controls. For agriculture, EU law provides a variety of instruments to cope with the most immediate effects of the withdrawal of the United Kingdom, in particular in a no-deal scenario.

The withdrawal of the United Kingdom from the EU will impact all Member States to varying degrees, but none more so than Ireland. On the basis of the principles described above, the Commission stands ready to support Ireland to find solutions addressing the particular challenges. The Commission is also committed to ensuring the continuation of the current PEACE and INTERREG programmes between the border counties of Ireland and Northern Ireland, to which the United Kingdom is a partner. The Commission has made proposals to

⁸ See section 4.

this effect for the next Multi-annual Financial Framework. Should the withdrawal of the United Kingdom from the EU be disorderly, the Commission considers that this support should be further strengthened as the challenges will be particularly acute.

Action by citizens and businesses

Contingency measures taken by national or EU authorities cannot replace the preparations that each citizen and business must take to prepare for the United Kingdom's withdrawal. Where new authorisations, licences or certificates will be required, **each party has the responsibility to apply in good time.**

In order to assist **stakeholders** in their preparation for the withdrawal of the United Kingdom, the Commission has published 78 detailed sectorial information notices guiding them on the steps to be taken⁹. Member States should continue to reach out to citizens and businesses, in particular small and medium-sized enterprises, to assist them in preparing for the withdrawal.

4. Contingency action at EU level

Beyond the preparedness measures described above, contingency planning consists of envisaging the measures that would be necessary to mitigate the effects of a withdrawal of the United Kingdom from the Union without a withdrawal agreement. In the case of a no deal scenario, all primary and secondary EU law will cease to apply to the United Kingdom and the effects of the withdrawal would materialise as of the date of the withdrawal. Exceptionally, acting in the interest of the European Union and to protect its vital interests, the Commission is envisaging a **limited number of contingency measures** to mitigate significant disruptions in some narrowly defined areas. These disruptions will differ from one sector to another and also among the EU27 Member States.

While the preparations for the United Kingdom becoming a third country in many respects would be the same with or without a withdrawal agreement providing a transition period, they would need to take place **at a much faster pace**. Also, the abruptness of a no-deal scenario would require some specific measures to be adopted.

Principles for contingency measures

In general, the rules of the European Union, including those specific to the functioning of the Internal Market, can adapt to a change of their territorial scope of application. Many rules were designed when the European Union had fewer members, and they have continued to apply as the number of Member States increased from six to 28. After the United Kingdom's departure, the European Union will continue to function and to apply its rules within its borders.

The overall approach to contingency should reflect the fact that in a no-deal scenario the United Kingdom as from 30 March 2019 would not be bound by any EU rules and could rapidly start diverging from them. Contingency measures will only be taken where strictly necessary and in the interest of the European Union and its citizens. This will be in the limited number of cases where current rules do not offer satisfactory solutions to mitigate the most

⁹ A full list is available in Annex 3.

disruptive effects for the European Union and its citizens of a withdrawal without an agreement. Measures should not put EU companies at a disadvantage compared to their competitors in the United Kingdom. They should not compensate companies that have not taken the necessary preparedness measures when their competitors have done so, as this would distort the level playing field.

In the Commission's view, contingency measures adopted at all levels should comply with the following general principles:

- Contingency measures should **not replicate the benefits of membership of the Union**, nor the terms of any transition period, as provided for in the draft Withdrawal Agreement;
- Contingency measures will in general be **temporary in nature**, and should in principle not go beyond the end of 2019;
- Contingency measures will be adopted **unilaterally** by the European Union in pursuit of its interests and can therefore, in principle, be revoked by the European Union at any time;
- Contingency measures must be adopted respecting the **division of competences** provided for by the Treaties as well as the principle of subsidiarity within the European Union;
- National contingency measures must be **compatible** with EU law, including the international obligations of the Union; and
- Contingency measures **will not remedy delays** that could have been avoided by preparedness measures and timely action by the relevant stakeholders.

5. Assessment of contingency needs

Some policy areas require specific attention, given their importance to the European Union as a whole, the far-reaching consequences that a disorderly withdrawal of the United Kingdom will have for them, and the resulting significant negative impact on citizens and companies. The Commission has identified the following areas as being of particular importance¹⁰. Work in these areas is being taken forward with a particular sense of urgency.

Citizens

In the negotiations with the United Kingdom, the European Union has put **citizens first** from the outset. In line with the conclusions of the European Council of 29 April 2017, issues related to citizens form the first substantive part of the draft Withdrawal Agreement. It has always been the European Union's intention that citizens should not pay the price of Brexit. This will require Member States to take a generous approach to the rights of UK citizens who are already resident in their territory¹¹.

- The Commission considers that periods of legal residence of UK citizens in an EU27 Member State before the withdrawal date should be considered as periods of legal

¹⁰ The list is without prejudice to additional action that could appear necessary at a later stage.

¹¹ For UK citizens resident in the EU27 Member States at the moment of withdrawal, Member States will need to process and deliver documentation appropriate to third country nationals. In order to continue residing and work in an EU27 Member State, those UK citizens will need to hold a residence permit, issued by the national migration authorities.

residence in a Member State of the European Union in accordance with Directive 2003/109/EC **concerning the status of third-country nationals** who are long-term residents.

This will help UK citizens who are resident in the EU27 to obtain long-term resident status in the Member State where they reside if they fulfil the necessary conditions. It will allow them to enjoy the same treatment as nationals regarding access to employment, education, and core social benefits. This will also allow them to benefit from family reunion rights and, under certain conditions, acquire the right to reside in another Member State of the European Union.

- The Commission is also assisting Member States in coordinating their action in the areas where they are competent, to ensure a coherent approach to protecting the rights of citizens. Given the scale of the administrative challenges which national and local authorities will face, and to avoid administrative delays, it is recommended that Member States accept that applications for residence permits are submitted in advance of the withdrawal date of the United Kingdom.

In this context, the Commission welcomes the reassurances by Prime Minister May¹² that even in a no deal scenario, the rights of EU citizens in the United Kingdom will be protected in ways similar to those described above. The Commission now expects this assurance to be formalised soon so that it can be relied upon by the citizens. The Commission Representation Offices in the United Kingdom are providing information and facilitating legal advice and expertise to EU27 citizens staying in the United Kingdom to assist them to ensure their legal status under the UK rules that apply after the withdrawal.

As mentioned above, the Commission has, in parallel to this Communication, adopted a proposal for a Regulation amending the **Visa Regulation**¹³. The proposal aims to facilitate the movement of persons between the European Union and the United Kingdom by exempting UK nationals from the visa requirement for short stays in the European Union, provided that nationals from all EU27 Member States are equally exempted from UK visa requirements.

Financial services¹⁴

The withdrawal of the United Kingdom results in the loss of the right for financial operators established in the United Kingdom to provide their services in the EU27 Member States under the EU financial services passports. Activities of EU operators in the United Kingdom will be subject to UK law.

In its stakeholder notices, the Commission has underlined the importance of preparedness for all possible scenarios, including a no deal scenario. The European Supervisory Authorities and the European Central Bank in its supervisory capacity, the Single Supervisory Mechanism, have issued extensive opinions and guidance to underline the need for preparedness and to clarify supervisory expectations in case of business relocation. Many EU financial services firms have prepared for a scenario in which the United Kingdom is no longer part of the Single Market, for example by adjusting their contracts or relocating capacities and activities to EU27. This transfer of activities and capacity-building in the EU27 is ongoing and should be accelerated, but it will not be possible to complete it in time in all

¹² <https://www.gov.uk/government/news/pm-brexit-negotiations-statement-21-september-2018>.

¹³ COM (2018) 745.

¹⁴ The Commission's stakeholder notices published in this area can be found: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#fisma.

areas by March 2019. While this could cause risks to financial stability in the European Union, the **risks in this sector linked to a no deal scenario have diminished significantly**.

For instance, many **insurance firms** have taken action – including transferring contracts, setting up branches and subsidiaries or merging with EU27 firms – to be in a position to continue providing services to their clients. The European Insurance and Occupational Pensions Authority (EIOPA) is working with national authorities to address residual risks for certain EU27 policyholders.¹⁵

Not-cleared ‘over-the-counter’ derivative contracts between EU and UK counterparts will, in principle, remain valid and executable until maturity. There does not appear to be any generalised problem of contract performance in the case of a no-deal scenario. Certain so-called life-cycle events (for example contract amendments, roll-overs and novations) may however in certain cases imply the need for an authorisation or an exemption, given that the counterparty is no longer an EU firm.¹⁶ Market participants are encouraged to continue preparing for this situation by transferring contracts and seeking the relevant authorisations.

In view of this assessment, the Commission does not consider that contingency measures are necessary in these two areas.

- As regards **cleared derivatives**, it appears that there might be risks to financial stability in a no deal scenario, deriving from a disorderly close out of positions of EU clearing members in the UK central counterparties. There might also be potential risks in relation to certain services provided to Union operators by UK central security depositories which cannot be replaced in the short-term. In these areas, the existing systems of equivalence provide appropriate tools, which can be swiftly deployed. The time remaining until 30 March 2019 should be used in this respect. Should the Commission need to act, it will only do so to the extent necessary to address financial stability risks arising from a withdrawal without an agreement, under strict conditionality and with limited duration. Should no agreement be in place, the Commission will adopt temporary and conditional equivalence decisions in order to ensure that there will be no disruption in central clearing and in depositories services¹⁷. These decisions will be complemented by recognition of UK-based infrastructures, which are therefore encouraged to pre-apply to the European Securities and Markets Authority (ESMA) for recognition.

Finally, the European Supervisory Authorities are encouraged to start preparing cooperation arrangements with UK supervisors to ensure that exchange of information related to financial institutions and actors is possible immediately after the withdrawal date in the case of a no deal scenario.

¹⁵ See also Communication from EIOPA on 5 November 2018, cf. <https://eiopa.europa.eu/Pages/News/EIOPA-calls-for-immediate-action-to-ensure-service-continuity-in-cross-border-insurance-.aspx>.

¹⁶ In order to facilitate the transfer of long term contracts to the European Union, on 8 November 2018, the European Securities and Markets Authority (ESMA) submitted to the Commission for endorsement draft technical standards which ensure that after a transfer, such contracts remain subject to the same regulatory treatment.

¹⁷ These measures are subject to a favourable vote of Member States in the competent committee.

*Air transport*¹⁸

In the area of **air transport**, the withdrawal of the United Kingdom without any arrangement in place at the withdrawal date, and without operators concluding the necessary and possible alternative arrangements, would lead to abrupt interruptions of air traffic between the United Kingdom and the European Union, due to the absence of traffic rights and/or the invalidity of the operating licence or of aviation safety certificates.

- Regarding **traffic rights**, the Commission will propose measures to ensure that air carriers from the United Kingdom are allowed to fly over the territory of the European Union, make technical stops (e.g. refuelling without embarkation/disembarkation of passengers), as well as land in the European Union and fly back to the United Kingdom. Those measures would be subject to the condition that the United Kingdom applies equivalent measures to air carriers from the European Union.
- Regarding **aviation safety**, for certain aeronautical products ('type certificates') and companies ('organisation approvals'), the European Aviation Safety Authority (EASA) will only be able to issue certificates once the United Kingdom has become a third country. The Commission will propose measures **ensuring continued validity of such certificates for a limited period of time**. These measures will be subject to the condition that the United Kingdom applies similar measures. Likewise, the Commission will propose measures **ensuring** that parts and appliances placed on the Union market before the withdrawal date based on a certificate issued by a legal and natural person certified by the UK Civil Aviation Authority may still be used under certain circumstances.
- The Commission will take action to ensure that passengers and their cabin baggage flying from the United Kingdom and transiting via EU27 airports continue to be exempted from a second security screening, by applying the so-called '**One Stop Security**' system.¹⁹

Regarding the requirement in EU law that air carriers must be majority-owned and controlled by EU legal or natural persons, **the Commission underlines that it is essential for companies that wish to be recognised as EU air carriers** to take all the necessary measures to ensure that they meet this requirement on 30 March 2019.

*Road transport*²⁰

Regarding **road transport**, in case of no deal scenario, as of the withdrawal date, UK hauliers would have market access rights limited to the permits offered under the European Conference of Ministers of Transport (ECMT) which would allow for considerably less traffic than what currently takes place between the Union and the United Kingdom. Current EU law contains no mechanism to extend the Community licenses, which give wider access rights to hauliers within the European Union.

¹⁸ The Commission's stakeholder notices published in this area can be found: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#move

¹⁹ This measure is subject to a favourable vote of Member States in the competent committee.

²⁰ The Commission's stakeholder notices published in this area can be found: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#move

Customs²¹

In the case of a no deal scenario, as of the withdrawal date, goods entering the European Union from the United Kingdom will be treated as imports and goods leaving the European Union to the United Kingdom will be treated as exports. All relevant EU legislation on imported goods and exported goods will apply, **including the levy of certain duties and taxes** (such as customs duties, value added tax and excise on importation), in accordance with the commitments of the European Union under the rules of the World Trade Organisation. The need for **customs declarations** to be presented to customs authorities, and the possibility to **control** shipments will also apply.

- The Commission calls on Member States to take all necessary steps to be in a position to apply the Union Customs Code and the relevant rules regarding indirect taxation on 30 March 2019, in case of a no deal scenario, **to all imports from and exports to the United Kingdom**. Customs authorities may issue **authorisations for the use of facilitation measures** provided for in the Union Customs Code, when economic operators request them, and subject to relevant requirements being met. Ensuring a level-playing field and smooth trade flows will be particularly challenging in the areas with the densest goods traffic with the United Kingdom. The Commission is working with Member States to help find solutions in full respect of the current legal framework.

Sanitary/phytosanitary requirements²²

In a no deal scenario, as of the withdrawal date, the entry of many goods and animals subject to **sanitary and phytosanitary (SPS) rules** will be prohibited unless the United Kingdom is 'listed' in EU law as an authorised third country.

- On the basis of the EU veterinary legislation, the Commission will – if justified – swiftly 'list'²³ the United Kingdom, if all applicable conditions are fulfilled, so as to allow the entry of live animals and animal products from the United Kingdom into the European Union²⁴.

However, even if the United Kingdom is listed, **strict health related import conditions** applied to third countries will be required and these imports will have to undergo sanitary and phytosanitary controls by Member States authorities at Border Inspection Posts, which is a matter of Member State responsibility. The Commission, when approving new or extended Border Inspection Posts in the EU27 Member States, will take account of the flexibilities provided for in the applicable EU legislation.

²¹ The Commission's stakeholder notices published in this area can be found: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud

²² The Commission's stakeholder notices published in this area can be found at the address: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante

²³ The 'listing' is subject to a favourable vote of Member States in the competent committee.

²⁴ The Commission notes that the UK Government has issued, on 24 September 2018, a guidance notice on 'importing animals and animal products if there's no Brexit deal' stating that 'there would be no change on the day the United Kingdom leaves the EU to current import controls or requirements for notifications of imports of live animals and animal products for imports direct from the EU'.

Personal data²⁵

In the case of a no deal scenario, as of the withdrawal date, the transfer of personal data to the United Kingdom will become subject to the rules on international transfers in application of the General Data Protection Regulation (EU) 2016/679, Directive (EU) 2016/680 for the law enforcement sector and Regulation (EC) 45/2001²⁶ for the institutions and bodies of the European Union.

The General Data Protection Regulation, Directive 2016/680 and Regulation 45/2001 contain a broad toolbox for data transfers to third countries. This includes in particular the so-called ‘appropriate safeguards’ (e.g. the Commission's approved Standard Contractual Clauses, Binding Corporate Rules, administrative arrangements) that can be used both by the private sector and public authorities.

In addition, the three legislative acts mentioned above contain a number of derogations for specific situations that allow data transfers even in the absence of appropriate safeguards, for instance if the data subject provides explicit consent, for the performance of a contract, for exercise of legal claims or for important reasons of public interest. These are the same tools that are used with most countries in the world for which no adequacy decision exists.

In view of the options available under the legislative acts mentioned, the adoption of an adequacy decision is not part of the Commission's contingency planning.

EU climate policy

In a no deal scenario, as of the withdrawal date, all relevant EU climate change legislation (EU Emissions Trading, fluorinated greenhouse gases and others) will cease to apply to and in the United Kingdom. For the EU Emissions Trading System, the Commission will closely monitor the proper functioning of the system in the withdrawal context. The Commission will take the necessary steps to preserve the integrity of this mechanism, including through the possible temporary suspension of auction and free allocation/exchange processes in relation to the United Kingdom.

In order to safeguard the operation of the fluorinated greenhouse gases quota system in the absence of a ratified Withdrawal Agreement by March 2019, the quantities of substance gases legally placed by UK companies on their domestic market should no longer be factored into the allocation of 2019 annual quotas, given that the EU market will be smaller as of the date of withdrawal.

- The Commission will amend UK companies' reference values as a basis for the allocation of their 2019 annual quotas for fluorinated greenhouse gases based on their declared EU27 activities, thereby excluding quotas based on their declared UK domestic activities²⁷.

6. Next steps on contingency

²⁵ The Commission's stakeholder notice published in this area can be found at the address: https://ec.europa.eu/info/sites/info/files/file_import/data_protection_en.pdf.

²⁶ Or its successor instrument once it has entered into force

²⁷ This measure is subject to a favourable vote of Member States in the competent committee.

The negotiations between the European Union and the United Kingdom on the Withdrawal Agreement continue and the Commission remains fully committed to this process.

However, as the date of the United Kingdom's withdrawal is approaching, it is now necessary to move forward with preparations for all possible outcomes. The contingency actions described above require very close coordination of all levels: the European Union, national and local level, and actions by stakeholders. In this Communication, the Commission has set out key actions to be taken in essential areas²⁸.

The Commission highlights that some measures involve incompressible procedural requirements for their adoption, in particular as regards legislative acts, for which Protocols 1 and 2 to the Treaties provide for an eight-week period for the consultation of national Parliaments. Similarly, delegated acts are subject to mandatory scrutiny by the European Parliament and Council, which cannot be accelerated in all cases.

The timely adoption of the necessary legislative measures requires the **full cooperation of all EU institutions involved**, to avoid delays due to non-Brexit related considerations.

The minimum timelines for the second-level legal acts, which the Commission is empowered to adopt, are outlined in Annex 5.

In light of this, the Commission intends to:

- Propose all necessary legislative measures and adopt all delegated acts before 31 December 2018.
- In the case of legislative acts, this should allow the European Parliament and the Council to have the time needed to complete the ordinary legislative procedure before the plenary of the outgoing Parliament in March 2019, and to exercise its control functions for delegated acts.
- Submit all necessary draft implementing acts for a vote in the competent committees by 15 February 2019 at the latest.

Throughout this period, the Commission will ensure proper coordination among Member States. To that effect, the Council Working Party (Art. 50) will organise **a series of sectorial meetings** in November-December 2018 involving the Brexit preparedness coordinators of the EU27 Member States and relevant national administrations, cf. Annex 6. These preparedness seminars will be an opportunity to assess jointly the state of play of preparedness and assess where additional action may be needed by stakeholders, national administrations and at EU level. The Commission will participate in European Parliament and Council meetings on preparedness issues as often as necessary.

The need for a united and coordinated approach of the EU27 Member States

The Commission calls on Member States to **remain united** in this unprecedented withdrawal process, continuing to display the determination and the solidarity that have characterised the position of the European Union in the negotiations and trust that a **collective contingency plan**, according to the timeline proposed and on the basis of the plan here suggested, will be implemented. The Commission points out that bilateral solutions would be either

²⁸ An overview is provided in Annex 4.

incompatible with the division of competences within the European Union or, even where compatible with the division of competences, would in the end jeopardise the integrity of the European Union, with negative effects for citizens, businesses and public authorities.

The draft Withdrawal Agreement constitutes the best option for the withdrawal. In the absence of a Withdrawal Agreement, the European Union will act to protect its interests, and should display a united and coordinated approach in all areas.