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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part

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## PART THREE

### LAW ENFORCEMENT AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

#### TITLE I

#### GENERAL PROVISIONS

#### ARTICLE 522

##### Objective

1. The objective of this Part is to provide for law enforcement and judicial cooperation between the Member States and Union institutions, bodies, offices and agencies, on the one side, and the United Kingdom, on the other side, in relation to the prevention, investigation, detection and prosecution of criminal offences and the prevention of and fight against money laundering and financing of terrorism.
2. This Part only applies to law enforcement and judicial cooperation in criminal matters taking place exclusively between the United Kingdom, on the one side, and the Union and the Member States, on the other side. It does not apply to situations arising between the Member States, or between Member States and Union institutions, bodies, offices and agencies, nor does it apply to the activities of authorities with responsibilities for safeguarding national security when acting in that field.

## ARTICLE 523

### Definitions

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

- (a) "third country" means a country other than a Member State or the United Kingdom;
- (b) "special categories of personal data" means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data processed for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation;
- (c) "genetic data" means all personal data relating to the genetic characteristics of an individual that have been inherited or acquired, which give unique information about the physiology or the health of that individual, resulting in particular from an analysis of a biological sample from the individual in question;
- (d) "biometric data" means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;

- (e) "processing" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (f) "personal data breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- (g) "filing system" means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- (h) "Specialised Committee on Law Enforcement and Judicial Cooperation" means the Committee by that name established by Article 8.

## ARTICLE 524

### Protection of human rights and fundamental freedoms

1. The cooperation provided for in this Part is based on the Parties' and Member States' long-standing respect for democracy, the rule of law and the protection of fundamental rights and freedoms of individuals, including as set out in the Universal Declaration of Human Rights and in the European Convention on Human Rights, and on the importance of giving effect to the rights and freedoms in that Convention domestically.
2. Nothing in this Part modifies the obligation to respect fundamental rights and legal principles as reflected, in particular, in the European Convention on Human Rights and, in the case of the Union and its Member States, in the Charter of Fundamental Rights of the European Union.

## ARTICLE 525

### Protection of personal data

1. The cooperation provided for in this Part is based on the Parties' long-standing commitment to ensuring a high level of protection of personal data.

2. To reflect that high level of protection, the Parties shall ensure that personal data processed under this Part is subject to effective safeguards in the Parties' respective data protection regimes, including that:

- (a) personal data is processed lawfully and fairly, in compliance with the principles of data minimisation, purpose limitation, accuracy and storage limitation;
- (b) processing of special categories of personal data is only permitted to the extent necessary and subject to appropriate safeguards adapted to the specific risks of the processing;
- (c) a level of security appropriate to the risk of the processing is ensured through relevant technical and organisational measures, in particular as regards the processing of special categories of personal data;
- (d) data subjects are granted enforceable rights of access, rectification and erasure, subject to possible restrictions provided for by law which constitute necessary and proportionate measures in a democratic society to protect important objectives of public interest;
- (e) in the event of a data breach creating a risk to the rights and freedoms of natural persons, the competent supervisory authority is notified without undue delay of the breach; where the breach is likely to result in a high risk to the rights and freedoms of natural persons, the data subjects are also notified, subject to possible restrictions provided for by law which constitute necessary and proportionate measures in a democratic society to protect important objectives of public interest;

- (f) onward transfers to a third country are allowed only subject to conditions and safeguards appropriate to the transfer ensuring that the level of protection is not undermined;
- (g) the supervision of compliance with data protection safeguards and the enforcement of data protection safeguards are ensured by independent authorities; and
- (h) data subjects are granted enforceable rights to effective administrative and judicial redress in the event that data protection safeguards have been violated.

3. The United Kingdom, on the one side, and the Union, also on behalf of any of its Member States, on the other side, shall notify the Specialised Committee on Law Enforcement and Judicial Cooperation of the supervisory authorities responsible for overseeing the implementation of, and ensuring compliance with, data protection rules applicable to cooperation under this Part. The supervisory authorities shall cooperate to ensure compliance with this Part.

4. The provisions on the protection of personal data set out in this Part apply to the processing of personal data wholly or partly by automated means, and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

5. This Article is without prejudice to the application of any specific provisions in this Part relating to the processing of personal data.

## ARTICLE 526

### Scope of cooperation where a Member State no longer participates in analogous measures under Union law

1. This Article applies if a Member State ceases to participate in, or enjoy rights under, provisions of Union law relating to law enforcement and judicial cooperation in criminal matters analogous to any of the relevant provisions of this Part.
2. The United Kingdom may notify the Union in writing of its intention to cease to operate the relevant provisions of this Part in relation to that Member State.
3. A notification given under paragraph 2 takes effect on the date specified therein, which shall be no earlier than the date on which the Member State ceases to participate in, or to enjoy rights under, the provisions of Union law referred to in paragraph 1.
4. If the United Kingdom gives notification under this Article of its intention to cease to apply the relevant provisions of this Part, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what measures are needed to ensure that any cooperation initiated under this Part that is affected by the cessation is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under the relevant provisions of this Part before they cease to be applied, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the cessation takes effect.



5. The Union shall notify the United Kingdom in writing, through diplomatic channels, of the date on which the Member State is to resume its participation in, or the enjoyment of rights under, the provisions of Union law in question. The application of the relevant provisions of this Part shall be reinstated on that date or, if later, on the first day of the month following the day on which that notification has been given.

6. To facilitate the application of this Article, the Union shall inform the United Kingdom when a Member State ceases to participate in, or enjoy rights under, provisions of Union law relating to law enforcement and judicial cooperation in criminal matters analogous to the relevant provisions of this Part.

## TITLE II

### EXCHANGES OF DNA, FINGERPRINTS AND VEHICLE REGISTRATION DATA

#### ARTICLE 527

##### Objective

The objective of this Title is to establish reciprocal cooperation between the competent law enforcement authorities of the United Kingdom, on the one side, and the Member States, on the other side, on the automated transfer of DNA profiles, dactyloscopic data and certain domestic vehicle registration data.

## ARTICLE 528

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "competent law enforcement authority" means a domestic police, customs or other authority that is authorised by domestic law to detect, prevent and investigate offences or criminal activities and to exercise authority and take coercive measures in the context of such activities; agencies, bodies or other units dealing especially with national security issues are not competent law enforcement authorities for the purposes of this Title;
- (b) "search" and "comparison", as referred to in Articles 530, 531, 534 and 539 mean the procedures by which it is established whether there is a match between, respectively, DNA data or dactyloscopic data which have been communicated by one State and DNA data or dactyloscopic data stored in the databases of one, several, or all of the other States;
- (c) "automated searching", as referred to in Article 537, means an online access procedure for consulting the databases of one, several, or all of the other States;
- (d) "non-coding part of DNA" means chromosome regions not genetically expressed, i.e. not known to provide for any functional properties of an organism;

- (e) "DNA profile" means a letter or numeric code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, i.e. the particular molecular structure at the various DNA locations (loci);
- (f) "DNA reference data" means DNA profile and reference number; DNA reference data shall only include DNA profiles established from the non-coding part of DNA and a reference number; DNA reference data shall not contain any data from which the data subject can be directly identified; DNA reference data which is not attributed to any natural person (unidentified DNA profiles) shall be recognisable as such;
- (g) "reference DNA profile" means the DNA profile of an identified person;
- (h) "unidentified DNA profile" means the DNA profile obtained from traces collected during the investigation of criminal offences and belonging to a person not yet identified;
- (i) "note" means a State's marking on a DNA profile in its domestic database indicating that there has already been a match for that DNA profile on another State's search or comparison;
- (j) "dactyloscopic data" means fingerprint images, images of fingerprint latents, palm prints, palm print latents and templates of such images (coded minutiae), when they are stored and dealt with in an automated database;

- (k) "dactyloscopic reference data" means dactyloscopic data and reference number; dactyloscopic reference data shall not contain any data from which the data subject can be directly identified; dactyloscopic reference data which is not attributed to any natural person (unidentified dactyloscopic data) shall be recognisable as such;
- (l) "vehicle registration data" means the data-set as specified in Chapter 3 of Annex 39;
- (m) "individual case", as referred to in Article 530(1), second sentence, Article 534(1), second sentence and Article 537(1), means a single investigation or prosecution file; if such a file contains more than one DNA profile, or one piece of dactyloscopic data or vehicle registration data, they may be transmitted together as one request;
- (n) "laboratory activity" means any measure taken in a laboratory when locating and recovering traces on items, as well as developing, analysing and interpreting forensic evidence regarding DNA profiles and dactyloscopic data, with a view to providing expert opinions or exchanging forensic evidence;
- (o) "results of laboratory activities" means any analytical outputs and directly associated interpretation;
- (p) "forensic service provider" means any organisation, public or private, that carries out laboratory activities at the request of competent law enforcement or judicial authorities;
- (q) "domestic accreditation body" means the sole body in a State that performs accreditation with authority derived from the State.

## ARTICLE 529

### Establishment of domestic DNA analysis files

1. The States shall open and keep domestic DNA analysis files for the investigation of criminal offences.
2. For the purpose of implementing this Title, the States shall ensure the availability of DNA reference data from their domestic DNA analysis files as referred to in paragraph 1.
3. The States shall declare the domestic DNA analysis files to which Articles 529 to 532 and Articles 535, 536 and 539 apply and the conditions for automated searching as referred to in Article 530(1).

## ARTICLE 530

### Automated searching of DNA profiles

1. For the investigation of criminal offences, States shall allow other States' national contact points as referred to in Article 535 access to the DNA reference data in their DNA analysis files, with the power to conduct automated searches by comparing DNA profiles. Searches may be conducted only in individual cases and in compliance with the requesting State's domestic law.

2. If an automated search shows that a DNA profile supplied matches DNA profiles entered in the requested State's searched file, the requested State shall send to the national contact point of the requesting State in an automated way the DNA reference data with which a match has been found. If no match can be found, this shall be notified automatically.

## ARTICLE 531

### Automated comparison of DNA profiles

1. For the investigation of criminal offences, the States, via their national contact points, shall compare the DNA profiles of their unidentified DNA profiles with all DNA profiles from other domestic DNA analysis files' reference data in accordance with mutually accepted practical arrangements between the States concerned. DNA profiles shall be supplied and compared in automated form. Unidentified DNA profiles shall be supplied for comparison only where provided for under the requesting State's domestic law.

2. If a State, as a result of the comparison referred to in paragraph 1, finds that any DNA profiles supplied by another State match any of those in its DNA analysis files, it shall supply that other State's national contact point with the DNA reference data with which a match has been found without delay.

## ARTICLE 532

### Collection of cellular material and supply of DNA profiles

Where, in ongoing investigations or criminal proceedings, there is no DNA profile available for a particular individual present within a requested State's territory, the requested State shall provide legal assistance by collecting and examining cellular material from that individual and by supplying the DNA profile obtained to the requesting State, if:

- (a) the requesting State specifies the purpose for which it is required;
- (b) the requesting State produces an investigation warrant or statement issued by the competent authority, as required under that State's domestic law, showing that the requirements for collecting and examining cellular material would be fulfilled if the individual concerned were present within the requesting State's territory; and
- (c) under the requested State's law, the requirements for collecting and examining cellular material and for supplying the DNA profile obtained are fulfilled.

## ARTICLE 533

### Dactyloscopic data

For the purpose of implementing this Title, the States shall ensure the availability of dactyloscopic reference data from the file for the domestic automated fingerprint identification systems established for the prevention and investigation of criminal offences.

## ARTICLE 534

### Automated searching of dactyloscopic data

1. For the prevention and investigation of criminal offences, States shall allow other States' national contact points, as referred to in Article 535, access to the reference data in the automated fingerprint identification systems which they have established for that purpose, with the power to conduct automated searches by comparing dactyloscopic data. Searches may be conducted only in individual cases and in compliance with the requesting State's domestic law.
2. The confirmation of a match of dactyloscopic data with reference data held by the requested State shall be carried out by the national contact point of the requesting State by means of the automated supply of the reference data required for a clear match.



## ARTICLE 535

### National contact points

1. For the purposes of the supply of data as referred to in Articles 530, 531 and 534, the States shall designate national contact points.
2. In respect of the Member States, national contact points designated for an analogous exchange of data within the Union shall be considered as national contact points for the purpose of this Title.
3. The powers of the national contact points shall be governed by the applicable domestic law.

## ARTICLE 536

### Supply of further personal data and other information

If the procedure referred to in Articles 530, 531 and 534 show a match between DNA profiles or dactyloscopic data, the supply of further available personal data and other information relating to the reference data shall be governed by the domestic law, including the legal assistance rules, of the requested State, without prejudice to Article 539(1).

## ARTICLE 537

### Automated searching of vehicle registration data

1. For the prevention and investigation of criminal offences and in dealing with other offences within the jurisdiction of the courts or a public prosecutor in the requesting State, as well as in maintaining public security, States shall allow other States' national contact points, as referred to in paragraph 2, access to the following domestic vehicle registration data, with the power to conduct automated searches in individual cases:

(a) data relating to owners or operators; and

(b) data relating to vehicles.

2. Searches may be conducted under paragraph 1 only with a full chassis number or a full registration number and in compliance with the requesting State's domestic law.

3. For the purposes of the supply of data as referred to in paragraph 1, the States shall designate a national contact point for incoming requests from other States. The powers of the national contact points shall be governed by the applicable domestic law.

## ARTICLE 538

### Accreditation of forensic service providers carrying out laboratory activities

1. The States shall ensure that their forensic service providers carrying out laboratory activities are accredited by a domestic accreditation body as complying with EN ISO/IEC 17025.
2. Each State shall ensure that the results of accredited forensic service providers carrying out laboratory activities in other States are recognised by its authorities responsible for the prevention, detection, and investigation of criminal offences as being equally reliable as the results of domestic forensic service providers carrying out laboratory activities accredited to EN ISO/IEC 17025.
3. The competent law enforcement authorities of the United Kingdom shall not carry out searches and automated comparison in accordance with Articles 530, 531 and 534 before the United Kingdom has implemented and applied the measures referred to in paragraph 1 of this Article.
4. Paragraphs 1 and 2 do not affect domestic rules on the judicial assessment of evidence.
5. The United Kingdom shall communicate to the Specialised Committee on Law Enforcement and Judicial Cooperation the text of the main provisions adopted to implement and apply the provisions of this Article.

## ARTICLE 539

### Implementing measures

1. For the purposes of this Title, States shall make all categories of data available for searching and comparison to the competent law enforcement authorities of other States under conditions equal to those under which they are available for searching and comparison by domestic competent law enforcement authorities. States shall supply further available personal data and other information relating to the reference data as referred to in Article 536 to the competent law enforcement authorities of other States for the purposes of this Title under conditions equal to those under which they would be supplied to domestic authorities.
2. For the purpose of implementing the procedures referred to in Articles 530, 531, 534 and 537, technical and procedural specifications are laid down in Annex 39.
3. The declarations made by Member States in accordance with Council Decisions 2008/615/JHA<sup>1</sup> and 2008/616/JHA<sup>2</sup> shall also apply in their relations with the United Kingdom.

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<sup>1</sup> Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ EU L 210, 6.8.2008, p. 1).

<sup>2</sup> Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ EU L 210, 6.8.2008, p. 12).

## ARTICLE 540

### Ex ante evaluation

1. In order to verify whether the United Kingdom has fulfilled the conditions set out in Article 539 and Annex 39, an evaluation visit and a pilot run, to the extent required by Annex 39, shall be carried out in respect of, and under conditions and arrangements acceptable to, the United Kingdom. In any event, a pilot run shall be carried out in relation to the searching of data under Article 537.
2. On the basis of an overall evaluation report on the evaluation visit and, where applicable, the pilot run, as referred to in paragraph 1, the Union shall determine the date or dates from which personal data may be supplied by Member States to the United Kingdom pursuant to this Title.
3. Pending the outcome of the evaluation referred to in paragraph 1, from the date of the entry into force of this Agreement, Member States may supply to the United Kingdom personal data as referred to in Articles 530, 531, 534 and 536 until the date or dates determined by the Union in accordance with paragraph 2 of this Article, but not longer than nine months after the entry into force of this Agreement. The Specialised Committee on Law Enforcement and Judicial Cooperation may extend this period once by a maximum of nine months.

## ARTICLE 541

### Suspension and disapplication

1. In the event that the Union considers it necessary to amend this Title because Union law relating to the subject matter governed by this Title is amended substantially, or is in the process of being amended substantially, it may notify the United Kingdom accordingly with a view to agreeing on a formal amendment of this Agreement in relation to this Title. Following such notification, the Parties shall engage in consultations.

2. Where within nine months of that notification the Parties have not reached an agreement amending this Title, the Union may decide to suspend the application of this Title or any provisions of this Title for a period of up to nine months. Before the end of that period, the Parties may agree on an extension of the suspension for an additional period of up to nine months. If by the end of the suspension period the Parties have not reached an agreement amending this Title, the suspended provisions shall cease to apply on the first day of the month following the expiry of the suspension period, unless the Union informs the United Kingdom that it no longer seeks any amendment to this Title. In that case, the suspended provisions of this Title shall be reinstated.

3. If any of the provisions of this Title are suspended under this Article, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what steps are needed to ensure that any cooperation initiated under this Title and affected by the suspension is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under this Title before the provisions concerned by the suspension provisionally cease to apply, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the suspension takes effect.

### TITLE III

#### TRANSFER AND PROCESSING OF PASSENGER NAME RECORD DATA

#### ARTICLE 542

##### Scope

1. This Title lays down rules under which passenger name record data may be transferred to, processed and used by the United Kingdom competent authority for flights between the Union and the United Kingdom, and establishes specific safeguards in that regard.
2. This Title applies to air carriers operating passenger flights between the Union and the United Kingdom.

3. This Title also applies to air carriers incorporated, or storing data, in the Union and operating passenger flights to or from the United Kingdom.

4. This Title also provides for police and judicial cooperation in criminal matters between the United Kingdom and the Union in respect of PNR data.

## ARTICLE 543

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "air carrier" means an air transport undertaking with a valid operating licence or equivalent permitting it to carry out carriage of passengers by air between the United Kingdom and the Union;
- (b) "passenger name record" ("PNR") means a record of each passenger's travel requirements which contains information necessary to enable reservations to be processed and controlled by the booking and participating air carriers for each journey booked by or on behalf of any person, whether it is contained in reservation systems, departure control systems used to check passengers into flights, or equivalent systems providing the same functionalities; specifically, as used in this Title, PNR data consists of the elements set out in Annex 40;



- (c) "United Kingdom competent authority" means the United Kingdom authority responsible for receiving and processing PNR data under this Agreement; if the United Kingdom has more than one competent authority it shall provide a passenger data single window facility that allows air carriers to transfer PNR data to a single data transmission entry point and shall designate a single point of contact for the purpose of receiving and making requests under Article 546;
- (d) "Passenger Information Units" ("PIUs") means the Units established or designated by Member States that are responsible for receiving and processing PNR data;
- (e) "terrorism" means any offence listed in Annex 45;
- (f) "serious crime" means any offence punishable by a custodial sentence or detention order for a maximum period of at least three years under the domestic law of the United Kingdom.

## ARTICLE 544

### Purposes of the use of PNR data

1. The United Kingdom shall ensure that PNR data received pursuant to this Title is processed strictly for the purposes of preventing, detecting, investigating or prosecuting terrorism or serious crime and for the purposes of overseeing the processing of PNR data within the terms set out in this Agreement.

2. In exceptional cases, the United Kingdom competent authority may process PNR data where necessary to protect the vital interests of any natural person, such as:

(a) a risk of death or serious injury; or

(b) a significant public health risk, in particular as identified under internationally recognised standards.

3. The United Kingdom competent authority may also process PNR data on a case-by-case basis where the disclosure of relevant PNR data is compelled by a United Kingdom court or administrative tribunal in a proceeding directly related to any of the purposes referred to in paragraph 1.

#### ARTICLE 545

##### Ensuring PNR data is provided

1. The Union shall ensure that air carriers are not prevented from transferring PNR data to the United Kingdom competent authority pursuant to this Title.

2. The Union shall ensure that air carriers may transfer PNR data to the United Kingdom competent authority through authorised agents, who act on behalf of and under the responsibility of an air carrier, pursuant to this Title.

3. The United Kingdom shall not require an air carrier to provide elements of PNR data which are not already collected or held by the air carrier for reservation purposes.
4. The United Kingdom shall delete any data transferred to it by an air carrier pursuant to this Title upon receipt of that data, if that data element is not listed in Annex 40.

## ARTICLE 546

### Police and judicial cooperation

1. The United Kingdom competent authority shall share with Europol or Eurojust, within the scope of their respective mandates, or with the PIUs of the Member States all relevant and appropriate analytical information containing PNR data as soon as possible in specific cases where necessary to prevent, detect, investigate, or prosecute terrorism or serious crime.
2. At the request of Europol or Eurojust, within the scope of their respective mandates, or of the PIU of a Member State, the United Kingdom competent authority shall share PNR data, the results of processing those data, or analytical information containing PNR data, in specific cases where necessary to prevent, detect, investigate, or prosecute terrorism or serious crime.
3. The PIUs of the Member States shall share with the United Kingdom competent authority all relevant and appropriate analytical information containing PNR data as soon as possible in specific cases where necessary to prevent, detect, investigate, or prosecute terrorism or serious crime.

4. At the request of the United Kingdom competent authority, the PIUs of the Member States shall share PNR data, the results of processing those data, or analytical information containing PNR data, in specific cases where necessary to prevent, detect, investigate, or prosecute terrorism or serious crime.

5. The Parties shall ensure that the information referred to in paragraphs 1 to 4 is shared in accordance with agreements and arrangements on law enforcement or information sharing between the United Kingdom and Europol, Eurojust, or the relevant Member State. In particular, the exchange of information with Europol under this Article shall take place through the secure communication line established for the exchange of information through Europol.

6. The United Kingdom competent authority and the PIUs of the Member States shall ensure that only the minimum amount of PNR data necessary is shared under paragraphs 1 to 4.

#### ARTICLE 547

##### Non-discrimination

The United Kingdom shall ensure that the safeguards applicable to the processing of PNR data apply to all natural persons on an equal basis without unlawful discrimination.

## ARTICLE 548

### Use of special categories of personal data

Any processing of special categories of personal data shall be prohibited under this Title. To the extent that any PNR data which is transferred to the United Kingdom competent authority includes special categories of personal data, the United Kingdom competent authority shall delete such data.

## ARTICLE 549

### Data security and integrity

1. The United Kingdom shall implement regulatory, procedural or technical measures to protect PNR data against accidental, unlawful or unauthorised access, processing or loss.
2. The United Kingdom shall ensure compliance verification and the protection, security, confidentiality, and integrity of the data. In that regard, the United Kingdom shall:
  - (a) apply encryption, authorisation, and documentation procedures to the PNR data;
  - (b) limit access to PNR data to authorised officials;
  - (c) hold PNR data in a secure physical environment that is protected with access controls; and

(d) establish a mechanism that ensures that PNR data queries are conducted in a manner consistent with Article 544.

3. If a natural person's PNR data is accessed or disclosed without authorisation, the United Kingdom shall take measures to notify that natural person, to mitigate the risk of harm, and to take remedial action.

4. The United Kingdom competent authority shall promptly inform the Specialised Committee on Law Enforcement and Judicial Cooperation of any significant incident of accidental, unlawful or unauthorised access, processing or loss of PNR data.

5. The United Kingdom shall ensure that any breach of data security, in particular any breach leading to accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, or any unlawful forms of processing, are subject to effective and dissuasive corrective measures which may include sanctions.

## ARTICLE 550

### Transparency and notification of passengers

1. The United Kingdom competent authority shall make the following available on its website:
  - (a) a list of the legislation authorising the collection of PNR data;

- (b) the purposes for the collection of PNR data;
- (c) the manner of protecting PNR data;
- (d) the manner and extent to which PNR data may be disclosed;
- (e) information regarding the rights of access, correction, notation and redress; and
- (f) contact information for inquiries.

2. The Parties shall work with interested third parties, such as the aviation and air travel industry, to promote transparency at the time of booking regarding the purpose of the collection, processing and use of PNR data, and regarding how to request access, correction and redress. Air carriers shall provide passengers with clear and meaningful information in relation to the transfer of PNR data under this Title, including the details of the recipient authority, the purpose of the transfer and the right to request from the recipient authority, access to and correction of the personal data of the passenger that has been transferred.

3. Where PNR data retained in accordance with Article 552 has been used subject to the conditions set out in Article 553 or has been disclosed in accordance with Article 555 or Article 556, the United Kingdom shall notify the passengers concerned in writing, individually and within a reasonable time once such notification is no longer liable to jeopardise the investigations by the public authorities concerned to the extent that the relevant contact information of the passengers is available or can be retrieved, taking into account reasonable efforts. The notification shall include information on how the natural person concerned can seek administrative or judicial redress.

## ARTICLE 551

### Automated processing of PNR data

1. The United Kingdom competent authority shall ensure that any automated processing of PNR data is based on non-discriminatory, specific and reliable pre-established models and criteria to enable it to:
  - (a) arrive at results targeting natural persons who might be under a reasonable suspicion of involvement or participation in terrorism or serious crime; or
  - (b) in exceptional circumstances, protect the vital interests of any natural person as set out in Article 544(2).



2. The United Kingdom competent authority shall ensure that the databases against which PNR data are compared are reliable, up to date and limited to those databases it uses in relation to the purposes set out in Article 544.

3. The United Kingdom shall not take any decision adversely affecting a natural person in a significant manner solely on the basis of automated processing of PNR data.

## ARTICLE 552

### Retention of PNR data

1. The United Kingdom shall not retain PNR data for more than five years from the date that it receives the PNR data.

2. No later than six months after the transfer of the PNR data referred to in paragraph 1, all PNR data shall be depersonalised by masking out the following data elements which could serve to identify directly the passenger to whom the PNR data relate or any other natural person:

(a) names, including the names of other passengers on the PNR and number of passengers on the PNR travelling together;

- (b) addresses, telephone numbers and electronic contact information of the passenger, the persons who made the flight reservation for the passenger, persons through whom the air passenger may be contacted and persons who are to be informed in the event of an emergency;
- (c) all available payment and billing information, to the extent that it contains any information which could serve to identify a natural person;
- (d) frequent flyer information;
- (e) other supplementary information (OSI), special service information (SSI) and special service request (SSR) information, to the extent that they contain any information which could serve to identify a natural person; and
- (f) any advance passenger information (API) data that have been collected.

3. The United Kingdom competent authority may unmask PNR data only if it is necessary to carry out investigations for the purposes set out in Article 544. Such unmasked PNR data shall be accessible only to a limited number of specifically authorised officials.

4. Notwithstanding paragraph 1, the United Kingdom shall delete the PNR data of passengers after their departure from the country unless a risk assessment indicates the need to retain such PNR data. In order to establish that need, the United Kingdom shall identify objective evidence from which it may be inferred that certain passengers present the existence of a risk in terms of the fight against terrorism and serious crime.

5. For the purposes of paragraph 4, unless information is available on the exact date of departure, the date of departure should be considered as the last day of the period of maximum lawful stay in the United Kingdom of the passenger concerned.
6. The use of the data retained under this Article is subject to the conditions laid down in Article 553.
7. An independent administrative body in the United Kingdom shall assess on a yearly basis the approach applied by the United Kingdom competent authority as regards the need to retain PNR data pursuant to paragraph 4.
8. Notwithstanding paragraphs 1, 2 and 4, the United Kingdom may retain PNR data required for any specific action, review, investigation, enforcement action, judicial proceeding, prosecution, or enforcement of penalties, until concluded.
9. The United Kingdom shall delete the PNR data at the end of the PNR data retention period.
10. Paragraph 11 applies due to the special circumstances that prevent the United Kingdom from making the technical adjustments necessary to transform the PNR processing systems which the United Kingdom operated whilst Union law applied to it into systems which would enable PNR data to be deleted in accordance with paragraph 4.

11. The United Kingdom may derogate from paragraph 4 on a temporary basis for an interim period, the duration of which is provided for in paragraph 13, pending the implementation by the United Kingdom of technical adjustments as soon as possible. During the interim period, the United Kingdom competent authority shall prevent the use of the PNR data that is to be deleted in accordance with paragraph 4 by applying the following additional safeguards to that PNR data:

- (a) the PNR data shall be accessible only to a limited number of authorised officials and only where necessary to determine whether the PNR data should be deleted in accordance with paragraph 4;
- (b) the request to use the PNR data shall be refused in cases where the data is to be deleted in accordance with paragraph 4, and no further access shall be granted to that data where the documentation referred to in point (d) of this paragraph indicates that an earlier request for use has been refused;
- (c) deletion of the PNR data shall be ensured as soon as possible using best efforts, taking into account the special circumstances referred to in paragraph 10; and
- (d) the following shall be documented in accordance with Article 554, and such documentation shall be made available to the independent administrative body referred to in paragraph 7 of this Article:
  - (i) any requests to use the PNR data;

- (ii) the date and time of the access to the PNR data for the purpose of assessing whether deletion of the PNR data was required;
- (iii) that the request to use the PNR data was refused on the basis that the PNR data should have been deleted under paragraph 4, including the date and time of the refusal; and
- (iv) the date and time of the deletion of the PNR data in accordance with point (c) of this paragraph.

12. The United Kingdom shall provide to the Specialised Committee on Law Enforcement and Judicial Cooperation, nine months after the entry into force of this Agreement and again a year later if the interim period is extended for a further year:

- (a) a report from the independent administrative body referred to in paragraph 7 of this Article, which shall include the opinion of the United Kingdom supervisory authority referred to in Article 525(3) as to whether the safeguards provided for in paragraph 11 of this Article have been effectively applied; and
- (b) the assessment of the United Kingdom of whether the special circumstances referred to in paragraph 10 of this Article persist, together with a description of the efforts made to transform the PNR processing systems of the United Kingdom into systems which would enable PNR data to be deleted in accordance with paragraph 4 of this Article.

13. The Specialised Committee on Law Enforcement and Judicial Cooperation shall meet within one year of the entry into force of this Agreement to consider the report and assessment provided under paragraph 12. Where the special circumstances referred to in paragraph 10 persist, the Partnership Council shall extend the interim period referred to in paragraph 11 for one year. The Partnership Council shall extend the interim period for one further final year, under the same conditions and following the same procedure as for the first extension where, in addition, substantial progress has been made, although it has not yet been possible to transform the United Kingdom PNR processing systems into systems which would enable PNR data to be deleted in accordance with paragraph 4.

14. If the United Kingdom considers that a refusal by the Partnership Council to grant either of those extensions was not justified, it may suspend this Title with one month's notice.

15. On the third anniversary of the date of entry into force of this Agreement, paragraphs 10 to 14 shall cease to apply.

## ARTICLE 553

### Conditions for the use of PNR data

1. The United Kingdom competent authority may use PNR data retained in accordance with Article 552 for purposes other than security and border control checks, including any disclosure under Article 555 and Article 556, only where new circumstances based on objective grounds indicate that the PNR data of one or more passengers might make an effective contribution to the attainment of the purposes set out in Article 544.
  
2. Use of PNR data by the United Kingdom competent authority in accordance with paragraph 1 shall be subject to prior review by a court or by an independent administrative body in the United Kingdom based on a reasoned request by the United Kingdom competent authority submitted within the domestic legal framework of procedures for the prevention, detection or prosecution of crime, except:
  - (a) in cases of validly established urgency; or
  - (b) for the purpose of verifying the reliability and currency of the pre-established models and criteria on which the automated processing of PNR data is based, or of defining new models and criteria for such processing.

## ARTICLE 554

### Logging and documenting of PNR data processing

The United Kingdom competent authority shall log and document all processing of PNR data. It shall only use such logging or documentation to:

- (a) self-monitor and to verify the lawfulness of data processing;
- (b) ensure proper data integrity;
- (c) ensure the security of data processing; and
- (d) ensure oversight.

## ARTICLE 555

### Disclosure within the United Kingdom

1. The United Kingdom competent authority shall not disclose PNR data to other public authorities in the United Kingdom unless the following conditions are met:

- (a) the PNR data is disclosed to public authorities whose functions are directly related to the purposes set out in Article 544;



- (b) the PNR data is disclosed only on a case-by-case basis;
- (c) the disclosure is necessary, in the particular circumstances, for the purposes set out in Article 544;
- (d) only the minimum amount of PNR data necessary is disclosed;
- (e) the receiving public authority affords protection equivalent to the safeguards described in this Title; and
- (f) the receiving public authority does not disclose the PNR data to another entity unless the disclosure is authorised by the United Kingdom competent authority in accordance with the conditions laid down in this paragraph.

2. When transferring analytical information containing PNR data obtained under this Title, the safeguards set out in this Article shall apply.

## ARTICLE 556

### Disclosure outside the United Kingdom

1. The United Kingdom shall ensure that the United Kingdom competent authority does not disclose PNR data to public authorities in third countries unless all the following conditions are met:
  - (a) the PNR data is disclosed to public authorities whose functions are directly related to the purposes set out in Article 544;
  - (b) the PNR data is disclosed only on a case-by-case basis;
  - (c) the PNR data is disclosed only if necessary for the purposes set out in Article 544;
  - (d) only the minimum amount of PNR data necessary is disclosed; and
  - (e) the third country to which the PNR data is disclosed has either concluded an agreement with the Union that provides for the protection of personal data comparable to this Agreement or is subject to a decision of the European Commission pursuant to Union law that finds that the third country ensures an adequate level of data protection within the meaning of Union law.

2. As an exception to point (e) of paragraph 1, the United Kingdom competent authority may transfer PNR data to a third country if:
- (a) the head of that authority, or a senior official specifically mandated by the head, considers that the disclosure is necessary for the prevention and investigation of a serious and imminent threat to public security or to protect the vital interests of any natural person; and
  - (b) the third country provides a written assurance, pursuant to an arrangement, agreement or otherwise, that the information shall be protected in line with the safeguards applicable under United Kingdom law to the processing of PNR data received from the Union, including those set out in this Title.
3. A transfer in accordance with paragraph 2 of this Article shall be documented. Such documentation shall be made available to the supervisory authority referred to in Article 525(3) on request, including the date and time of the transfer, information about the receiving authority, the justification for the transfer and the PNR data transferred.
4. If, in accordance with paragraph 1 or 2, the United Kingdom competent authority discloses PNR data collected under this Title that originates in a Member State, the United Kingdom competent authority shall notify the authorities of that Member State of the disclosure at the earliest appropriate opportunity. The United Kingdom shall make that notification in accordance with agreements or arrangements on law enforcement or information sharing between the United Kingdom and that Member State.

5. When transferring analytical information containing PNR data obtained under this Title, the safeguards set out in this Article shall apply.

## ARTICLE 557

### Method of transfer

Air carriers shall transfer PNR data to the United Kingdom competent authority exclusively on the basis of the "push method", a method by which air carriers transfer PNR data into the database of the United Kingdom competent authority, and in accordance with the following procedures to be observed by air carriers, by which they:

- (a) transfer PNR data by electronic means in compliance with the technical requirements of the United Kingdom competent authority or, in the case of a technical failure, by any other appropriate means ensuring an appropriate level of data security;
- (b) transfer PNR data using a mutually accepted messaging format; and
- (c) transfer PNR data in a secure manner using common protocols as required by the United Kingdom competent authority.

## ARTICLE 558

### Frequency of transfer

1. The United Kingdom competent authority shall require air carriers to transfer the PNR data:
  - (a) initially from no earlier than 96 hours before the scheduled flight service departure time; and
  - (b) a maximum number of five times as specified by the United Kingdom competent authority.
2. The United Kingdom competent authority shall permit air carriers to limit the transfer referred to in point (b) of paragraph 1 to updates of the PNR data transferred as referred to in point (a) of that paragraph.
3. The United Kingdom competent authority shall inform air carriers of the specified times for the transfers.
4. In specific cases where there is an indication that additional access to PNR data is necessary to respond to a specific threat related to the purposes set out in Article 544, the United Kingdom competent authority may require an air carrier to provide PNR data prior to, between or after the scheduled transfers. In exercising that discretion, the United Kingdom competent authority shall act judiciously and proportionately, and shall use the method of transfer described in Article 557.

## ARTICLE 559

### Cooperation

The United Kingdom competent authority and the PIUs of the Member States shall cooperate to pursue the coherence of their PNR data processing regimes in a manner that further enhances the security of individuals in the United Kingdom, the Union and elsewhere.

## ARTICLE 560

### Non-derogation

This Title shall not be construed as derogating from any obligation between the United Kingdom and Member States or third countries to make or respond to a request under a mutual assistance instrument.

## ARTICLE 561

### Consultation and review

1. The Parties shall advise each other of any measure that is to be enacted that may affect this Title.

2. When carrying out joint reviews of this Title as referred to in Article 691(1), the Parties shall pay particular attention to the necessity and proportionality of processing and retaining PNR data for each of the purposes set out in Article 544. The joint reviews shall also include an examination of how the United Kingdom competent authority has ensured that the pre-established models, criteria and databases referred to in Article 551 are reliable, relevant and current, taking into account statistical data.

## ARTICLE 562

### Suspension of cooperation under this Title

1. In the event that either Party considers that the continued operation of this Title is no longer appropriate, it may notify the other Party accordingly of its intention to suspend the application of this Title. Following such notification, the Parties shall engage in consultations.

2. Where within 6 months of that notification the Parties have not reached a resolution, either Party may decide to suspend the application of this Title for a period of up to 6 months. Before the end of that period, the Parties may agree an extension of the suspension for an additional period of up to 6 months. If by the end of the suspension period the Parties have not reached a resolution with respect to this Title, this Title shall cease to apply on the first day of the month following the expiry of the suspension period, unless the notifying Party informs the other Party that it wishes to withdraw the notification. In that case, the provisions of this Title shall be reinstated.

3. If this Title is suspended under this Article, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what steps are needed to ensure that any cooperation initiated under this Title that is affected by the suspension is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under this Title before the provisions concerned by the suspension provisionally cease to apply, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the suspension takes effect.

## TITLE IV

### COOPERATION ON OPERATIONAL INFORMATION

#### ARTICLE 563

##### Cooperation on Operational Information

1. The objective of this Title is for the Parties to ensure that the competent authorities of the United Kingdom and of the Member States are able to, subject to the conditions of their domestic law and within the scope of their powers, and to the extent that this is not provided for in other Titles of this Part, assist each other through the provision of relevant information for the purposes of:

(a) the prevention, investigation, detection or prosecution of criminal offences;



- (b) the execution of criminal penalties;
- (c) safeguarding against, and the prevention of, threats to public safety; and
- (d) the prevention and combating of money laundering and the financing of terrorism.

2. For the purposes of this Title, a "competent authority" means a domestic police, customs or other authority that is competent under domestic law to undertake activities for the purposes set out in paragraph 1.

3. Information, including information on wanted and missing persons as well as objects, may be requested by a competent authority of the United Kingdom or of a Member State, or provided spontaneously to a competent authority of the United Kingdom or of a Member State. Information may be provided in response to a request or spontaneously, subject to the conditions of the domestic law which applies to the providing competent authority and within the scope of its powers.

4. Information may be requested and provided to the extent that the conditions of the domestic law which applies to the requesting or providing competent authority do not stipulate that the request or provision of information has to be made or channelled via judicial authorities.

5. In urgent cases, the providing competent authority shall respond to a request, or provide information spontaneously, as soon as possible.

6. A competent authority of the requesting State may, in accordance with relevant domestic law, at the time of making the request or at a later point in time, seek consent from the providing State for the information to be used for evidential purposes in proceedings before a judicial authority. The providing State may, subject to the conditions set out in Title VIII and the conditions of the domestic law which applies to it, consent to the information being used for evidential purposes before a judicial authority in the requesting State. Equally, where information is provided spontaneously, the providing State may consent to the information being used for evidential purposes in proceedings before a judicial authority in the receiving State. Where consent is not given under this paragraph, the information received shall not be used for evidential purposes in proceedings before a judicial authority.

7. The providing competent authority may, under relevant domestic law, impose conditions on the use of the information provided.

8. A competent authority may provide under this Title any type of information which it holds, subject to the conditions of the domestic law which applies to it and within the scope of its powers. This may include information from other sources, only if onward transfer of that information is permitted in the framework under which it was obtained by the providing competent authority.

9. Information may be provided under this Title via any appropriate communication channel, including the secure communication line for the purpose of provision of information through Europol.

10. This Article shall not affect the operation or conclusion of bilateral agreements between the United Kingdom and Member States, provided that the Member States act in compliance with Union law. It shall also not affect any other powers which are available to the competent authorities of the United Kingdom or of the Member States under applicable domestic or international law to provide assistance through the sharing of information for the purposes set out in paragraph 1.

## TITLE V

### COOPERATION WITH EUROPOL

#### ARTICLE 564

##### Objective

The objective of this Title is to establish cooperative relations between Europol and the competent authorities of the United Kingdom in order to support and strengthen the action by the Member States and the United Kingdom, as well as their mutual cooperation in preventing and combating serious crime, terrorism and forms of crime which affect a common interest covered by a Union policy, as referred to in Article 566.

## ARTICLE 565

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "Europol" means the European Union Agency for Law Enforcement Cooperation, set up under Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>1</sup> (the "Europol Regulation");
- (b) "competent authority" means, for the Union, Europol and, for the United Kingdom, a domestic law enforcement authority responsible under domestic law for preventing and combating criminal offences;

## ARTICLE 566

### Forms of crime

1. The cooperation established under this Title relates to the forms of crime within Europol's competence, as listed in Annex 41, including related criminal offences.

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<sup>1</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ EU L 135, 24.5.2016, p. 53).

2. Related criminal offences are criminal offences committed in order to procure the means of committing the forms of crime referred to in paragraph 1, criminal offences committed in order to facilitate or carry out such crimes, and criminal offences committed to ensure impunity for such crimes.

3. Where the list of forms of crime for which Europol is competent under Union law is changed, the Specialised Committee on Law Enforcement and Judicial Cooperation may, upon a proposal from the Union, amend Annex 41 accordingly from the date when the change to Europol's competence enters into effect.

## ARTICLE 567

### Scope of cooperation

The cooperation may, in addition to the exchange of personal data under the conditions laid down in this Title and in accordance with the tasks of Europol as outlined in the Europol Regulation, in particular include:

- (a) the exchange of information such as specialist knowledge;
- (b) general situation reports;
- (c) results of strategic analysis;

- (d) information on criminal investigation procedures;
- (e) information on crime prevention methods;
- (f) participation in training activities; and
- (g) the provision of advice and support in individual criminal investigations as well as operational cooperation.

## ARTICLE 568

### National contact point and liaison officers

1. The United Kingdom shall designate a national contact point to act as the central point of contact between Europol and the competent authorities of the United Kingdom.
2. The exchange of information between Europol and the competent authorities of the United Kingdom shall take place between Europol and the national contact point referred to in paragraph 1. This does not preclude, however, direct exchanges of information between Europol and the competent authorities of the United Kingdom, if considered appropriate by both Europol and the relevant competent authorities.

3. The national contact point shall also be the central point of contact in respect of review, correction and deletion of personal data.
4. To facilitate the cooperation established under this Title, the United Kingdom shall second one or more liaison officers to Europol. Europol may second one or more liaison officers to the United Kingdom.
5. The United Kingdom shall ensure that its liaison officers have speedy and, where technically possible, direct access to the relevant domestic databases of the United Kingdom that are necessary for them to fulfil their tasks.
6. The number of liaison officers, the details of their tasks, their rights and obligations and the costs involved shall be governed by working arrangements concluded between Europol and the competent authorities of the United Kingdom as referred to in Article 577.
7. Liaison officers from the United Kingdom and representatives of the competent authorities of the United Kingdom may be invited to operational meetings. Member State liaison officers and third-country liaison officers, representatives of competent authorities from the Member States and third countries, Europol staff and other stakeholders may attend meetings organised by the liaison officers or the competent authorities of the United Kingdom.

## ARTICLE 569

### Exchanges of information

1. Exchanges of information between the competent authorities shall comply with the objective and provisions of this Title. Personal data shall be processed only for the specific purposes referred to in paragraph 2.
2. The competent authorities shall clearly indicate, at the latest at the moment of transferring personal data, the specific purpose or purposes for which the personal data are being transferred. For transfers to Europol, the purpose or purposes of such transfer shall be specified in line with the specific purposes of processing set out in the Europol Regulation. If the transferring competent authority has not done so, the receiving competent authority, in agreement with the transferring authority, shall process the personal data in order to determine their relevance as well as the purpose or purposes for which it is to be further processed. The competent authorities may process personal data for a purpose other than the purpose for which they have been provided only if authorised to do so by the transferring competent authority.
3. The competent authorities receiving the personal data shall give an undertaking stating that such data will be processed only for the purpose for which they were transferred. The personal data shall be deleted as soon as they are no longer necessary for the purpose for which they were transferred.



4. Europol and the competent authorities of the United Kingdom shall determine without undue delay, and in any event no later than six months after receipt of the personal data, if and to what extent those personal data are necessary for the purpose for which they were transferred and inform the transferring authority accordingly.

## ARTICLE 570

### Restrictions on access to and further use of transferred personal data

1. The transferring competent authority may indicate, at the moment of transferring personal data, any restriction on access thereto or the use to be made thereof, in general or specific terms, including as regards its onward transfer, erasure or destruction after a certain period of time, or its further processing. Where the need for such restrictions becomes apparent after the personal data have been transferred, the transferring competent authority shall inform the receiving competent authority accordingly.

2. The receiving competent authority shall comply with any restriction on access or further use of the personal data indicated by the transferring competent authority as described in paragraph 1.

3. Each Party shall ensure that information transferred under this Title was collected, stored and transferred in accordance with its respective legal framework. Each Party shall ensure, as far as possible, that such information has not been obtained in violation of human rights. Nor shall such information be transferred if, to the extent reasonably foreseeable, it could be used to request, hand down or execute a death penalty or any form of cruel or inhuman treatment.

## ARTICLE 571

### Different categories of data subjects

1. The transfer of personal data in respect of victims of a criminal offence, witnesses or other persons who can provide information concerning criminal offences, or in respect of persons under the age of 18, shall be prohibited unless such transfer is strictly necessary and proportionate in individual cases for preventing or combating a criminal offence.

2. The United Kingdom and Europol shall each ensure that the processing of personal data under paragraph 1 is subject to additional safeguards, including restrictions on access, additional security measures and limitations on onward transfers.

## ARTICLE 572

### Facilitation of flow of personal data between the United Kingdom and Europol

In the interest of mutual operational benefits, the Parties shall endeavour to cooperate in the future with a view to ensuring that data exchanges between Europol and the competent authorities of the United Kingdom can take place as quickly as possible, and to consider the incorporation of any new processes and technical developments which might assist with that objective, while taking account of the fact that the United Kingdom is not a Member State.

## ARTICLE 573

### Assessment of reliability of the source and accuracy of information

1. The competent authorities shall indicate as far as possible, at the latest at the moment of transferring the information, the reliability of the source of the information on the basis of the following criteria:

- (a) where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is provided by a source which has proved to be reliable in all instances;
- (b) where the information is provided by a source which has in most instances proved to be reliable;

(c) where the information is provided by a source which has in most instances proved to be unreliable;

(d) where the reliability of the source cannot be assessed.

2. The competent authorities shall indicate as far as possible, at the latest at the moment of transferring the information, the accuracy of the information on the basis of the following criteria:

(a) information the accuracy of which is not in doubt;

(b) information known personally to the source but not known personally to the official passing it on;

(c) information not known personally to the source but corroborated by other information already recorded;

(d) information not known personally to the source and which cannot be corroborated.

3. Where the receiving competent authority, on the basis of information already in its possession, comes to the conclusion that the assessment of information or of its source supplied by the transferring competent authority in accordance with paragraphs 1 and 2 needs correction, it shall inform that competent authority and shall attempt to agree on an amendment to the assessment. The receiving competent authority shall not change the assessment of information received or of its source without such agreement.

4. If a competent authority receives information without an assessment, it shall attempt as far as possible and where possible in agreement with the transferring competent authority to assess the reliability of the source or the accuracy of the information on the basis of information already in its possession.

5. If no reliable assessment can be made, the information shall be evaluated as provided for in point (d) of paragraph 1 and point (d) of paragraph 2.

## ARTICLE 574

### Security of the information exchange

1. The technical and organisational measures put in place to ensure the security of the information exchange under this Title shall be laid down in administrative arrangements between Europol and the competent authorities of the United Kingdom as referred to in Article 577.

2. The Parties agree on the establishment, implementation and operation of a secure communication line for the purpose of the exchange of information between Europol and the competent authorities of the United Kingdom.

3. Administrative arrangements between Europol and the competent authorities of the United Kingdom as referred to in Article 576 shall regulate the secure communication line's terms and conditions of use.

## ARTICLE 575

### Liability for unauthorised or incorrect personal data processing

1. The competent authorities shall be liable, in accordance with their respective legal frameworks, for any damage caused to an individual as a result of legal or factual errors in information exchanged. In order to avoid liability under their respective legal frameworks vis-à-vis an injured party, neither Europol nor the competent authorities of the United Kingdom may plead that the other competent authority had transferred inaccurate information.
2. If damages are awarded either against Europol or against the competent authorities of the United Kingdom because of the use by either of them of information which was erroneously communicated by the other, or communicated as a result of a failure on the part of the other to comply with their obligations, the amount paid as compensation under paragraph 1 either by Europol or by the competent authorities of the United Kingdom shall be repaid by the other, unless the information was used in breach of this Title.
3. Europol and the competent authorities of the United Kingdom shall not require each other to pay for punitive or non-compensatory damages under paragraphs 1 and 2.

## ARTICLE 576

### Exchange of classified and sensitive non-classified information

The exchange and protection of classified and sensitive non-classified information, if necessary under this Title, shall be regulated in working and administrative arrangements as referred to in Article 577 between Europol and the competent authorities of the United Kingdom.

## ARTICLE 577

### Working and administrative arrangements

1. The details of cooperation between the United Kingdom and Europol, as appropriate to complement and implement the provisions of this Title, shall be the subject of working arrangements in accordance with Article 23(4) of the Europol Regulation and administrative arrangements in accordance with Article 25(1) of the Europol Regulation concluded between Europol and the competent authorities of the United Kingdom.

2. Without prejudice to any provision in this Title and while reflecting the status of the United Kingdom as not being a Member State, Europol and the competent authorities of the United Kingdom shall, subject to a decision by Europol's Management Board, include, in working arrangements or administrative arrangements, as the case may be, provisions complementing or implementing this Title, in particular allowing for:

- (a) consultations between Europol and one or more representatives of the national contact point of the United Kingdom on policy issues and matters of common interest for the purpose of realising their objectives and coordinating their respective activities, and of furthering cooperation between Europol and the competent authorities of the United Kingdom;
- (b) the participation of one or more representatives of the United Kingdom as observer or observers in specific meetings of the Heads of Europol National Units in line with the rules of proceedings of such meetings;
- (c) the association of one or more representatives of the United Kingdom to operational analysis projects, in accordance with the rules set out by the appropriate Europol governance bodies;
- (d) the specification of liaison officers' tasks, their rights and obligations and the costs involved;  
or
- (e) cooperation between the competent authorities of the United Kingdom and Europol in the event of privacy or security breaches.



3. The substance of working and administrative arrangements may be set out together in one document.

## ARTICLE 578

### Notification of implementation

1. The United Kingdom and Europol shall each make publicly available a document setting out in an intelligible form the provisions regarding the processing of personal data transferred under this Title including the means available for the exercise of the rights of data subjects, and shall each ensure that a copy of that document be provided to the other.

2. Where not already in place, the United Kingdom and Europol shall adopt rules specifying how compliance with the provisions regarding the processing of personal data will be enforced in practice. The United Kingdom and Europol shall each send a copy of those rules to the other and to the respective supervisory authorities.

## ARTICLE 579

### Powers of Europol

Nothing in this Title shall be construed as creating an obligation on Europol to cooperate with the competent authorities of the United Kingdom beyond Europol's competence as set out in the relevant Union law.

## TITLE VI

### COOPERATION WITH EUROJUST

#### ARTICLE 580

##### Objective

The objective of this Title is to establish cooperation between Eurojust and the competent authorities of the United Kingdom in combating serious crimes as referred to in Article 582.

#### ARTICLE 581

##### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "Eurojust" means the European Union Agency for Criminal Justice Cooperation, set up under Regulation (EU) 2018/1727 of the European Parliament and of the Council<sup>1</sup> (the "Eurojust Regulation");

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<sup>1</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ EU L 295, 21.11.2018, p. 138).

- (b) "competent authority" means, for the Union, Eurojust, represented by the College or a National Member and, for the United Kingdom, a domestic authority with responsibilities under domestic law relating to the investigation and prosecution of criminal offences;
- (c) "College" means the College of Eurojust, as referred to in the Eurojust Regulation;
- (d) "National Member" means the National Member seconded to Eurojust by each Member State, as referred to in the Eurojust Regulation;
- (e) "Assistant" means a person who may assist a National Member and the National Member's Deputy, or the Liaison Prosecutor, as referred to in the Eurojust Regulation and in Article 585(3) respectively;
- (f) "Liaison Prosecutor" means a public prosecutor seconded by the United Kingdom to Eurojust and subject to the domestic law of the United Kingdom as regards the public prosecutor's status;
- (g) "Liaison Magistrate" means a magistrate posted by Eurojust to the United Kingdom in accordance with Article 586;
- (h) "Domestic Correspondent for Terrorism Matters" means the contact point designated by the United Kingdom in accordance with Article 584, responsible for handling correspondence related to terrorism matters.

## ARTICLE 582

### Forms of crime

1. The cooperation established under this Title relates to the forms of serious crime within the competence of Eurojust, as listed in Annex 42, including related criminal offences.
2. Related criminal offences are the criminal offences committed in order to procure the means of committing forms of serious crime referred to in paragraph 1, criminal offences committed in order to facilitate or commit such serious crimes, and criminal offences committed to ensure impunity for such serious crimes.
3. Where the list of forms of serious crime for which Eurojust is competent under Union law is changed, the Specialised Committee on Law Enforcement and Judicial Cooperation may, upon a proposal from the Union, amend Annex 42 accordingly from the date when the change to Eurojust's competence enters into effect.

## ARTICLE 583

### Scope of cooperation

The Parties shall ensure that Eurojust and the competent authorities of the United Kingdom cooperate in the fields of activity set out in Articles 2 and 54 of the Eurojust Regulation and in this Title.

## ARTICLE 584

### Contact points to Eurojust

1. The United Kingdom shall put in place or appoint at least one contact point to Eurojust within the competent authorities of the United Kingdom.
2. The United Kingdom shall designate one of its contact points as the United Kingdom Domestic Correspondent for Terrorism Matters.

## ARTICLE 585

### Liaison Prosecutor

1. To facilitate the cooperation established under this Title, the United Kingdom shall second a Liaison Prosecutor to Eurojust.
2. The mandate and the duration of the secondment shall be determined by the United Kingdom.
3. The Liaison Prosecutor may be assisted by up to five Assistants, reflecting the volume of cooperation. When necessary, Assistants may replace the Liaison Prosecutor or act on the Liaison Prosecutor's behalf.
4. The United Kingdom shall inform Eurojust of the nature and extent of the judicial powers of the Liaison Prosecutor and the Liaison Prosecutor's Assistants within the United Kingdom to accomplish their tasks in accordance with this Title. The United Kingdom shall establish the competence of its Liaison Prosecutor and the Liaison Prosecutor's Assistants to act in relation to foreign judicial authorities.
5. The Liaison Prosecutor and the Liaison Prosecutor's Assistants shall have access to the information contained in the domestic criminal record, or in any other register of the United Kingdom, in accordance with domestic law in the case of a prosecutor or person of equivalent competence.

6. The Liaison Prosecutor and the Liaison Prosecutor's Assistants shall have the power to contact the competent authorities of the United Kingdom directly.

7. The number of Assistants referred to in paragraph 3 of this Article, the details of the tasks of the Liaison Prosecutor and the Liaison Prosecutor's Assistants, their rights and obligations and the costs involved shall be governed by a working arrangement concluded between Eurojust and the competent authorities of the United Kingdom as referred to in Article 594.

8. The working documents of the Liaison Prosecutor and the Liaison Prosecutor's Assistants shall be held inviolable by Eurojust.

## ARTICLE 586

### Liaison Magistrate

1. For the purpose of facilitating judicial cooperation with the United Kingdom in cases in which Eurojust provides assistance, Eurojust may post a Liaison Magistrate to the United Kingdom, in accordance with Article 53 of the Eurojust Regulation.

2. The details of the Liaison Magistrate's tasks referred to in paragraph 1 of this Article, the Liaison Magistrate's rights and obligations and the costs involved, shall be governed by a working arrangement concluded between Eurojust and the competent authorities of the United Kingdom as referred to in Article 594.

## ARTICLE 587

### Operational and strategic meetings

1. The Liaison Prosecutor, the Liaison Prosecutor's Assistants, and representatives of other competent authorities of the United Kingdom, including the contact point to Eurojust, may participate in meetings with regard to strategic matters at the invitation of the President of Eurojust and in meetings with regard to operational matters with the approval of the National Members concerned.
2. National Members, their Deputies and Assistants, the Administrative Director of Eurojust and Eurojust staff may attend meetings organised by the Liaison Prosecutor, the Liaison Prosecutor's Assistants, or other competent authorities of the United Kingdom, including the contact point to Eurojust.

## ARTICLE 588

### Exchange of non-personal data

Eurojust and the competent authorities of the United Kingdom may exchange any non-personal data in so far as those data are relevant for the cooperation under this Title, and subject to any restrictions pursuant to Article 593.



## ARTICLE 589

### Exchange of personal data

1. Personal data requested and received by competent authorities under this Title shall be processed by them only for the objectives set out in Article 580, for the specific purposes referred to in paragraph 2 of this Article and subject to the restrictions on access or further use referred to in paragraph 3 of this Article.
2. The transferring competent authority shall clearly indicate, at the latest at the moment of transferring personal data, the specific purpose or purposes for which the data are being transferred.
3. The transferring competent authority may indicate, at the moment of transferring personal data, any restriction on access thereto or the use to be made thereof, in general or specific terms, including as regards its onward transfer, erasure or destruction after a certain period of time, or its further processing. Where the need for such restrictions becomes apparent after the personal data have been provided, the transferring authority shall inform the receiving authority accordingly.
4. The receiving competent authority shall comply with any restriction on access or further use of the personal data indicated by the transferring competent authority as provided for in paragraph 3.

## ARTICLE 590

### Channels of transmission

1. Information shall be exchanged:
  - (a) either between the Liaison Prosecutor or the Liaison Prosecutor's Assistants or, if none is appointed or otherwise available, the United Kingdom's contact point to Eurojust and the National Members concerned or the College;
  - (b) if Eurojust has posted a Liaison Magistrate to the United Kingdom, between the Liaison Magistrate and any competent authority of the United Kingdom; in that event, the Liaison Prosecutor shall be informed of any such information exchanges; or
  - (c) directly between a competent authority in the United Kingdom and the National Members concerned or the College; in that event, the Liaison Prosecutor and, if applicable, the Liaison Magistrate shall be informed of any such information exchanges.
2. Eurojust and the competent authorities of the United Kingdom may agree to use other channels for the exchange of information in particular cases.
3. Eurojust and the competent authorities of the United Kingdom shall each ensure that their respective representatives are authorised to exchange information at the appropriate level and in accordance with United Kingdom law and the Eurojust Regulation respectively, and are adequately screened.

## ARTICLE 591

### Onward transfers

The competent authorities of the United Kingdom and Eurojust shall not communicate any information provided by the other to any third country or international organisation without the consent of whichever of the competent authorities of the United Kingdom or Eurojust provided the information and without appropriate safeguards regarding the protection of personal data.

## ARTICLE 592

### Liability for unauthorised or incorrect personal data processing

1. The competent authorities shall be liable, in accordance with their respective legal frameworks, for any damage caused to an individual as a result of legal or factual errors in information exchanged. In order to avoid liability under their respective legal frameworks vis-à-vis an injured party, neither Eurojust nor the competent authorities of the United Kingdom may plead that the other competent authority had transferred inaccurate information.

2. If damages are awarded against any competent authority because of its use of information which was erroneously communicated by the other, or communicated as a result of a failure on the part of the other to comply with their obligations, the amount paid as compensation under paragraph 1 by the competent authority shall be repaid by the other, unless the information was used in breach of this Title.

3. Eurojust and the competent authorities of the United Kingdom shall not require each other to pay for punitive or non-compensatory damages under paragraphs 1 and 2.

## ARTICLE 593

### Exchange of classified and sensitive non-classified information

The exchange and protection of classified and sensitive non-classified information, if necessary under this Title, shall be regulated by a working arrangement as referred to in Article 594 concluded between Eurojust and the competent authorities of the United Kingdom.

## ARTICLE 594

### Working arrangement

The modalities of cooperation between the Parties as appropriate to implement this Title shall be the subject of a working arrangement concluded between Eurojust and the competent authorities of the United Kingdom in accordance with Articles 47(3) and 56(3) of the Eurojust Regulation.

## ARTICLE 595

### Powers of Eurojust

Nothing in this Title shall be construed as creating an obligation on Eurojust to cooperate with the competent authorities of the United Kingdom beyond Eurojust's competence as set out in the relevant Union law.

## TITLE VII

### SURRENDER

#### ARTICLE 596

##### Objective

The objective of this Title is to ensure that the extradition system between the Member States, on the one side, and the United Kingdom, on the other side, is based on a mechanism of surrender pursuant to an arrest warrant in accordance with the terms of this Title.

#### ARTICLE 597

##### Principle of proportionality

Cooperation through the arrest warrant shall be necessary and proportionate, taking into account the rights of the requested person and the interests of the victims, and having regard to the seriousness of the act, the likely penalty that would be imposed and the possibility of a State taking measures less coercive than the surrender of the requested person particularly with a view to avoiding unnecessarily long periods of pre-trial detention.

## ARTICLE 598

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "arrest warrant" means a judicial decision issued by a State with a view to the arrest and surrender by another State of a requested person, for the purposes of conducting a criminal prosecution or executing a custodial sentence or detention order;
- (b) "judicial authority" means an authority that is, under domestic law, a judge, a court or a public prosecutor. A public prosecutor is considered a judicial authority only to the extent that domestic law so provides;
- (c) "executing judicial authority" means the judicial authority of the executing State which is competent to execute the arrest warrant by virtue of the domestic law of that State;
- (d) "issuing judicial authority" means the judicial authority of the issuing State which is competent to issue an arrest warrant by virtue of the domestic law of that State.

## ARTICLE 599

### Scope

1. An arrest warrant may be issued for acts punishable by the law of the issuing State by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences or detention orders of at least four months.
2. Without prejudice to paragraphs 3 and 4, surrender is subject to the condition that the acts for which the arrest warrant has been issued constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.



3. Subject to Article 600, points (b) to (h) of Article 601(1), and Articles 602, 603 and 604, a State shall not refuse to execute an arrest warrant issued in relation to the following behaviour where such behaviour is punishable by deprivation of liberty or a detention order of a maximum period of at least 12 months:

- (a) the behaviour of any person who contributes to the commission by a group of persons acting with a common purpose of one or more offences in the field of terrorism referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism, done at Strasbourg on 27 January 1977, or in relation to illicit trafficking in narcotic drugs and psychotropic substances, or murder, grievous bodily injury, kidnapping, illegal restraint, hostage-taking or rape, even where that person does not take part in the actual execution of the offence or offences concerned; such contribution must be intentional and made with the knowledge that the participation will contribute to the achievement of the group's criminal activities; or
- (b) terrorism as defined in Annex 45.

4. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that, on the basis of reciprocity, the condition of double criminality referred to in paragraph 2 will not be applied, provided that the offence on which the warrant is based is:

- (a) one of the offences listed in paragraph 5, as defined by the law of the issuing State; and

(b) punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years.

5. The offences referred to in paragraph 4 are:

- participation in a criminal organisation;
- terrorism as defined in Annex 45;
- trafficking in human beings;
- sexual exploitation of children and child pornography;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit trafficking in weapons, munitions and explosives;
- corruption, including bribery;
- fraud, including that affecting the financial interests of the United Kingdom, a Member State or the Union;
- laundering of the proceeds of crime;
- counterfeiting currency;

- computer-related crime;
- environmental crime, including illicit trafficking in endangered animal species and endangered plant species and varieties;
- facilitation of unauthorised entry and residence;
- murder;
- grievous bodily injury;
- illicit trade in human organs and tissue;
- kidnapping, illegal restraint and hostage-taking;
- racism and xenophobia;
- organised or armed robbery;
- illicit trafficking in cultural goods, including antiques and works of art;
- swindling;
- racketeering and extortion;

- counterfeiting and piracy of products;
- forgery of administrative documents and trafficking therein;
- forgery of means of payment;
- illicit trafficking in hormonal substances and other growth promoters;
- illicit trafficking in nuclear or radioactive materials;
- trafficking in stolen vehicles;
- rape;
- arson;
- crimes within the jurisdiction of the International Criminal Court;
- unlawful seizure of aircraft, ships or spacecraft; and
- sabotage.

## ARTICLE 600

### Grounds for mandatory non-execution of the arrest warrant

The execution of the arrest warrant shall be refused:

- (a) if the offence on which the arrest warrant is based is covered by an amnesty in the executing State, where that State had jurisdiction to prosecute the offence under its own criminal law;
- (b) if the executing judicial authority is informed that the requested person has been finally judged by a State in respect of the same acts, provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the sentencing State; or
- (c) if the person who is the subject of the arrest warrant may not, owing to the person's age, be held criminally responsible for the acts on which the arrest warrant is based under the law of the executing State.

## ARTICLE 601

### Other grounds for non-execution of the arrest warrant

1. The execution of the arrest warrant may be refused:
  - (a) if, in one of the cases referred to in Article 599(2), the act on which the arrest warrant is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, the execution of the arrest warrant shall not be refused on the grounds that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes or duties, customs and exchange regulations as the law of the issuing State;
  - (b) if the person who is the subject of the arrest warrant is being prosecuted in the executing State for the same act as that on which the arrest warrant is based;
  - (c) if the judicial authorities of the executing State have decided either not to prosecute for the offence on which the arrest warrant is based or to halt proceedings, or if a final judgment which prevents further proceedings has been passed upon the requested person in a State in respect of the same acts;
  - (d) if the criminal prosecution or punishment of the requested person is statute-barred under the law of the executing State and the acts fall within the jurisdiction of that State under its own criminal law;

- (e) if the executing judicial authority is informed that the requested person has been finally judged by a third country in respect of the same acts provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the sentencing country;
- (f) if the arrest warrant has been issued for the purposes of execution of a custodial sentence or detention order and the requested person is staying in, or is a national or a resident of the executing State and that State undertakes to execute the sentence or detention order in accordance with its domestic law; if consent of the requested person to the transfer of the sentence or detention order to the executing State is required, the executing State may refuse to execute the arrest warrant only after the requested person consents to the transfer of the sentence or detention order;
- (g) if the arrest warrant relates to offences which:
  - (i) are regarded by the law of the executing State as having been committed in whole or in part in the territory of the executing State or in a place treated as such; or
  - (ii) have been committed outside the territory of the issuing State, and the law of the executing State does not allow prosecution for the same offences if committed outside its territory;

- (h) if there are reasons to believe on the basis of objective elements that the arrest warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of the person's sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of those reasons;
- (i) if the arrest warrant has been issued for the purpose of executing a custodial sentence or a detention order and the requested person did not appear in person at the trial resulting in the decision, unless the arrest warrant states that the person, in accordance with further procedural requirements defined in the domestic law of the issuing State:

- (i) in due time:

- (A) either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that the person was aware of the date and place of the scheduled trial ;

and

- (B) was informed that a decision may be handed down if that person did not appear for the trial;

or



(ii) being aware of the date and place of the scheduled trial, had given a mandate to a lawyer, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that lawyer at the trial;

or

(iii) after being served with the decision and being expressly informed about the right to a retrial or appeal in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

(A) expressly stated that the person did not contest the decision;

or

(B) did not request a retrial or appeal within the applicable time frame;

or

(iv) was not personally served with the decision but:

(A) will be personally served with it without delay after the surrender and will be expressly informed of the right to a retrial or appeal in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed;

and

(B) will be informed of the time frame within which the person has to request such a retrial or appeal, as mentioned in the relevant arrest warrant.

2. Where the arrest warrant is issued for the purpose of executing a custodial sentence or detention order under the conditions in point (i) (iv) of paragraph 1 and the person concerned has not previously received any official information about the existence of the criminal proceedings against him or her, that person may, when being informed about the content of the arrest warrant, request to receive a copy of the judgment before being surrendered. Immediately after having been informed about the request, the issuing authority shall provide the copy of the judgment via the executing authority to the person concerned. The request of the person concerned shall neither delay the surrender procedure nor delay the decision to execute the arrest warrant. The provision of the judgment to the person concerned shall be for information purposes only; it shall not be regarded as a formal service of the judgment nor actuate any time limits applicable for requesting a retrial or appeal.

3. Where a person is surrendered under the conditions in point (i) (iv) of paragraph 1 and that person has requested a retrial or appeal, until those proceedings are finalised the detention of that person awaiting such retrial or appeal shall be reviewed in accordance with the domestic law of the issuing State, either on a regular basis or upon request of the person concerned. Such a review shall in particular include the possibility of suspension or interruption of the detention. The retrial or appeal shall begin within due time after the surrender.

## ARTICLE 602

### Political offence exception

1. The execution of an arrest warrant may not be refused on the grounds that the offence may be regarded by the executing State as a political offence, as an offence connected with a political offence or as an offence inspired by political motives.

2. However, the United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that paragraph 1 will be applied only in relation to:

(a) the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism;

- (b) offences of conspiracy or association to commit one or more of the offences referred to in Articles 1 and 2 of the European Convention on the Suppression of Terrorism, if those offences of conspiracy or association correspond to the description of behaviour referred to in Article 599(3) of this Agreement; and
- (c) terrorism as defined in Annex 45 to this Agreement.

3. Where an arrest warrant has been issued by a State having made a notification as referred to in paragraph 2 or by a State on behalf of which such a notification has been made, the State executing the arrest warrant may apply reciprocity.

## ARTICLE 603

### Nationality exception

1. The execution of an arrest warrant may not be refused on the grounds that the requested person is a national of the executing State.

2. The United Kingdom, and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that that State's own nationals will not be surrendered or that the surrender of their own nationals will be authorised only under certain specified conditions. The notification shall be based on reasons related to the fundamental principles or practice of the domestic legal order of the United Kingdom or the State on behalf of which a notification was made. In such a case, the Union, on behalf of any of its Member States or the United Kingdom, as the case may be, may notify the Specialised Committee on Law Enforcement and Judicial Cooperation within a reasonable time after the receipt of the other Party's notification that the executing judicial authorities of the Member State or the United Kingdom, as the case may be, may refuse to surrender its nationals to that State or that surrender shall be authorised only under certain specified conditions.

3. In circumstances where a State has refused to execute an arrest warrant on the basis that, in the case of the United Kingdom, it has made a notification or, in the case of a Member State, the Union has made a notification on its behalf, as referred to in paragraph 2, that State shall consider instituting proceedings against its own national which are commensurate with the subject matter of the arrest warrant, having taken into account the views of the issuing State. In circumstances where a judicial authority decides not to institute such proceedings, the victim of the offence on which the arrest warrant is based shall be able to receive information on the decision in accordance with the applicable domestic law.

4. Where a State's competent authorities institute proceedings against its own national in accordance with paragraph 3, that State shall ensure that its competent authorities are able to take appropriate measures to assist the victims and witnesses in circumstances where they are residents of another State, particularly with regard to the way in which the proceedings are conducted.

#### ARTICLE 604

##### Guarantees to be given by the issuing State in particular cases

The execution of the arrest warrant by the executing judicial authority may be subject to the following guarantees:

- (a) if the offence on which the arrest warrant is based is punishable by a custodial life sentence or a lifetime detention order in the issuing State, the executing State may make the execution of the arrest warrant subject to the condition that the issuing State gives a guarantee deemed sufficient by the executing State that the issuing State will review the penalty or measure imposed, on request or at the latest after 20 years, or will encourage the application of measures of clemency for which the person is entitled to apply under the law or practice of the issuing State, aiming at the non-execution of such penalty or measure;

- (b) if a person who is the subject of an arrest warrant for the purposes of prosecution is a national or resident of the executing State, the surrender of that person may be subject to the condition that the person, after being heard, is returned to the executing State in order to serve there the custodial sentence or detention order passed against him or her in the issuing State; if the consent of the requested person to the transfer of the sentence or detention order to the executing State is required, the guarantee that the person be returned to the executing State to serve the person's sentence is subject to the condition that the requested person, after being heard, consents to be returned to the executing State;
  
- (c) if there are substantial grounds for believing that there is a real risk to the protection of the fundamental rights of the requested person, the executing judicial authority may require, as appropriate, additional guarantees as to the treatment of the requested person after the person's surrender before it decides whether to execute the arrest warrant.

## ARTICLE 605

### Recourse to the central authority

1. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation of, in the case of the United Kingdom, its central authority and, in the case of the Union, the central authority for each State, having designated such an authority, or, if the legal system of the relevant State so provides, of more than one central authority to assist the competent judicial authorities.

2. When notifying the Specialised Committee on Law Enforcement and Judicial Cooperation under paragraph 1, the United Kingdom and the Union, acting on behalf of any of its Member States, may each indicate that, as a result of the organisation of the internal judicial system of the relevant States, the central authority or central authorities are responsible for the administrative transmission and receipt of arrest warrants as well as for all other official correspondence relating to the administrative transmission and receipt of arrest warrants. Such indication shall be binding upon all the authorities of the issuing State.

## ARTICLE 606

### Content and form of the arrest warrant

1. The arrest warrant shall contain the following information set out in accordance with the form contained in Annex 43:

- (a) the identity and nationality of the requested person;
- (b) the name, address, telephone and fax numbers and e-mail address of the issuing judicial authority;
- (c) evidence of an enforceable judgment, an arrest warrant or any other enforceable judicial decision having the same effect that fall within the scope of Article 599;



- (d) the nature and legal classification of the offence, particularly in respect of Article 599;
- (e) a description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the requested person;
- (f) the penalty imposed, if there is a final judgment, or the prescribed scale of penalties for the offence under the law of the issuing State; and
- (g) if possible, other consequences of the offence.

2. The arrest warrant shall be translated into the official language or one of the official languages of the executing State. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that a translation in one or more other official languages of a State will be accepted.

## ARTICLE 607

### Transmission of an arrest warrant

If the location of the requested person is known, the issuing judicial authority may transmit the arrest warrant directly to the executing judicial authority.

## ARTICLE 608

### Detailed procedures for transmitting an arrest warrant

1. If the issuing judicial authority does not know which authority is the competent executing judicial authority, it shall make the requisite enquiries, in order to obtain that information from the executing State.
2. The issuing judicial authority may request the International Criminal Police Organisation ("Interpol") to transmit an arrest warrant.
3. The issuing judicial authority may transmit the arrest warrant by any secure means capable of producing written records under conditions allowing the executing State to establish the authenticity of the arrest warrant.

4. All difficulties concerning the transmission or the authenticity of any document needed for the execution of the arrest warrant shall be dealt with by direct contacts between the judicial authorities involved, or, where appropriate, with the involvement of the central authorities of the States.

5. If the authority which receives an arrest warrant is not competent to act upon it, it shall automatically forward the arrest warrant to the competent authority in its State and shall inform the issuing judicial authority accordingly.

## ARTICLE 609

### Rights of a requested person

1. If a requested person is arrested for the purpose of the execution of an arrest warrant, the executing judicial authority, in accordance with its domestic law, shall inform that person of the arrest warrant and of its contents, and also of the possibility of consenting to surrender to the issuing State.

2. A requested person who is arrested for the purpose of the execution of an arrest warrant and who does not speak or understand the language of the arrest warrant proceedings shall have the right to be assisted by an interpreter and to be provided with a written translation in the native language of the requested person or in any other language which that person speaks or understands, in accordance with the domestic law of the executing State.

3. A requested person shall have the right to be assisted by a lawyer in accordance with the domestic law of the executing State upon arrest.
4. The requested person shall be informed of the person's right to appoint a lawyer in the issuing State for the purpose of assisting the lawyer in the executing State in the arrest warrant proceedings. This paragraph is without prejudice to the time limits set out in Article 621.
5. A requested person who is arrested shall have the right to have the consular authorities of that person's State of nationality, or if that person is stateless, the consular authorities of the State where that person usually resides, informed of the arrest without undue delay and to communicate with those authorities, if that person so wishes.

## ARTICLE 610

### Keeping the person in detention

When a person is arrested on the basis of an arrest warrant, the executing judicial authority shall take a decision on whether the requested person should remain in detention, in accordance with the law of the executing State. The person may be released provisionally at any time in accordance with the domestic law of the executing State, provided that the competent authority of that State takes all the measures it deems necessary to prevent the person from absconding.

## ARTICLE 611

### Consent to surrender

1. If the arrested person indicates that he or she consents to surrender, that consent and, if appropriate, the express renunciation of entitlement to the speciality rule referred to in Article 625(2) must be given before the executing judicial authority, in accordance with the domestic law of the executing State.
2. Each State shall adopt the measures necessary to ensure that the consent and, where appropriate, the renunciation referred to in paragraph 1 are established in such a way as to show that the person concerned has expressed them voluntarily and in full awareness of the consequences. To that end, the requested person shall have the right to a lawyer.
3. The consent and, where appropriate, the renunciation referred to in paragraph 1 shall be formally recorded in accordance with the procedure laid down by the domestic law of the executing State.

4. In principle, consent may not be revoked. Each State may provide that the consent and, if appropriate, the renunciation referred to in paragraph 1 of this Article may be revoked in accordance with the rules applicable under its domestic law. In such a case, the period between the date of the consent and that of its revocation shall not be taken into consideration in establishing the time limits laid down in Article 621. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that it wishes to have recourse to this possibility, specifying the procedures whereby revocation of the consent is possible and any amendments to those procedures.

## ARTICLE 612

### Hearing of the requested person

Where the arrested person does not consent to surrender as referred to in Article 611, that person shall be entitled to be heard by the executing judicial authority, in accordance with the law of the executing State.

## ARTICLE 613

### Surrender decision

1. The executing judicial authority shall decide whether the person is to be surrendered within the time limits and in accordance with the conditions defined in this Title, in particular the principle of proportionality as set out in Article 597.
2. If the executing judicial authority finds the information communicated by the issuing State to be insufficient to allow it to decide on surrender, it shall request that the necessary supplementary information, in particular with respect to Article 597, Articles 600 to 602, Article 604 and Article 606, be furnished as a matter of urgency and may fix a time limit for the receipt thereof, taking into account the need to observe the time limits provided for in Article 615.
3. The issuing judicial authority may forward any additional useful information to the executing judicial authority at any time.

## ARTICLE 614

### Decision in the event of multiple requests

1. If two or more States have issued a European arrest warrant or an arrest warrant for the same person, the decision as to which of those arrest warrants is to be executed shall be taken by the executing judicial authority, with due consideration of all the circumstances, especially the relative seriousness of the offences and place of the offences, the respective dates of the arrest warrants or European arrest warrants and whether they have been issued for the purposes of prosecution or for the execution of a custodial sentence or detention order, and of legal obligations of Member States deriving from Union law regarding, in particular, the principles of freedom of movement and non-discrimination on grounds of nationality.
2. The executing judicial authority of a Member State may seek the advice of Eurojust when making the choice referred to in paragraph 1.
3. In the event of a conflict between an arrest warrant and a request for extradition presented by a third country, the decision as to whether the arrest warrant or the extradition request takes precedence shall be taken by the competent authority of the executing State with due consideration of all the circumstances, in particular those referred to in paragraph 1 and those mentioned in the applicable convention.
4. This Article is without prejudice to the States' obligations under the Statute of the International Criminal Court.



## ARTICLE 615

### Time limits and procedures for the decision to execute the arrest warrant

1. An arrest warrant shall be dealt with and executed as a matter of urgency.
2. In cases where the requested person consents to surrender, the final decision on the execution of the arrest warrant shall be taken within ten days after the consent was given.
3. In other cases, the final decision on the execution of the arrest warrant shall be taken within 60 days after the arrest of the requested person.
4. Where in specific cases the arrest warrant cannot be executed within the time limits laid down in paragraph 2 or 3, the executing judicial authority shall immediately inform the issuing judicial authority of that fact, giving the reasons for the delay. In such cases, the time limits may be extended by a further 30 days.
5. As long as the executing judicial authority has not taken a final decision on the arrest warrant, it shall ensure that the material conditions necessary for the effective surrender of the person remain fulfilled.
6. Reasons must be given for any refusal to execute an arrest warrant.

## ARTICLE 616

### Situation pending the decision

1. Where the arrest warrant has been issued for the purpose of conducting a criminal prosecution, the executing judicial authority shall either:
  - (a) agree that the requested person should be heard according to Article 617; or
  - (b) agree to the temporary transfer of the requested person.
2. The conditions and the duration of the temporary transfer shall be determined by mutual agreement between the issuing and executing judicial authorities.
3. In the case of temporary transfer, the person must be able to return to the executing State to attend hearings which concern that person as part of the surrender procedure.

## ARTICLE 617

### Hearing the person pending the decision

1. The requested person shall be heard by a judicial authority. To that end, the requested person shall be assisted by a lawyer designated in accordance with the law of the issuing State.

2. The requested person shall be heard in accordance with the law of the executing State and with the conditions determined by mutual agreement between the issuing and executing judicial authorities.

3. The competent executing judicial authority may assign another judicial authority of its State to take part in the hearing of the requested person in order to ensure the proper application of this Article.

## ARTICLE 618

### Privileges and immunities

1. Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution in the executing State, the time limits referred to in Article 615 only start running when, or if, the executing judicial authority is informed of the fact that the privilege or immunity has been waived.

2. The executing State shall ensure that the material conditions necessary for effective surrender are fulfilled when the person no longer enjoys such privilege or immunity.

3. Where power to waive the privilege or immunity lies with an authority of the executing State, the executing judicial authority shall request that authority to exercise that power without delay. Where power to waive the privilege or immunity lies with an authority of another State, third country or international organisation, the issuing judicial authority shall request that authority to exercise that power.

## ARTICLE 619

### Competing international obligations

1. This Agreement does not prejudice the obligations of the executing State where the requested person has been extradited to that State from a third country and where that person is protected by provisions of the arrangement under which that person was extradited concerning the speciality rule. The executing State shall take all necessary measures for requesting without delay the consent of the third country from which the requested person was extradited so that the requested person can be surrendered to the State which issued the arrest warrant. The time limits referred to in Article 615 do not start running until the day on which the speciality rule ceases to apply.
2. Pending the decision of the third country from which the requested person was extradited, the executing State shall ensure that the material conditions necessary for effective surrender remain fulfilled.

## ARTICLE 620

### Notification of the decision

The executing judicial authority shall notify the issuing judicial authority immediately of the decision on the action to be taken on the arrest warrant.

## ARTICLE 621

### Time limits for surrender of the person

1. The requested person shall be surrendered as soon as possible on a date agreed between the authorities concerned.
2. The requested person shall be surrendered no later than ten days after the final decision on the execution of the arrest warrant.
3. If the surrender of the requested person within the time limit in paragraph 2 is prevented by circumstances beyond the control of any of the States, the executing and issuing judicial authorities shall immediately contact each other and agree on a new surrender date. In that event, the surrender shall take place within ten days of the new date thus agreed.

4. The surrender may exceptionally be temporarily postponed for serious humanitarian reasons, for example if there are substantial grounds for believing that the surrender would manifestly endanger the requested person's life or health. The execution of the arrest warrant shall take place as soon as those grounds have ceased to exist. The executing judicial authority shall immediately inform the issuing judicial authority and agree on a new surrender date. In that event, the surrender shall take place within ten days of the new date agreed.

5. Upon the expiry of the time limits referred to in paragraphs 2 to 4, if the requested person is still being held in custody, that person shall be released. The executing and issuing judicial authorities shall contact each other as soon as it appears that a person is to be released under this paragraph and agree the arrangements for the surrender of that person.

## ARTICLE 622

### Postponed or conditional surrender

1. After deciding to execute the arrest warrant, the executing judicial authority may postpone the surrender of the requested person so that the requested person may be prosecuted in the executing State or, if the requested person has already been sentenced, so that the requested person may serve, a sentence passed for an act other than that referred to in the arrest warrant in the territory of the executing State.

2. Instead of postponing the surrender, the executing judicial authority may temporarily surrender the requested person to the issuing State under conditions to be determined by mutual agreement between the executing and the issuing judicial authorities. The agreement shall be made in writing and the conditions shall be binding on all the authorities in the issuing State.

## ARTICLE 623

### Transit

1. Each State shall permit the transit through its territory of a requested person who is being surrendered provided that it has been given information on:

- (a) the identity and nationality of the person subject to the arrest warrant;
- (b) the existence of an arrest warrant;
- (c) the nature and legal classification of the offence; and
- (d) the description of the circumstances of the offence, including the date and place.

2. The State, on behalf of which a notification has been made in accordance with Article 603(2) to the effect that its own nationals will not be surrendered or that surrender will be authorised only under certain specified conditions, may, refuse the transit of its own nationals through its territory under the same terms or submit it to the same conditions.

3. The States shall designate an authority responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests.

4. The transit request and the information referred to in paragraph 1 may be addressed to the authority designated pursuant to paragraph 3 by any means capable of producing a written record. The State of transit shall notify its decision by the same procedure.

5. This Article does not apply in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs, the issuing State shall provide the authority designated pursuant to paragraph 3 with the information referred to in paragraph 1.

6. Where a transit concerns a person who is to be extradited from a third country to a State, this Article applies *mutatis mutandis*. In particular, references to an "arrest warrant" shall be treated as references to an "extradition request".

#### ARTICLE 624

##### Deduction of the period of detention served in the executing State

1. The issuing State shall deduct all periods of detention arising from the execution of an arrest warrant from the total period of detention to be served in the issuing State as a result of a custodial sentence or detention order being passed.



2. All information concerning the duration of the detention of the requested person on the basis of the arrest warrant shall be transmitted by the executing judicial authority or the central authority designated under Article 605 to the issuing judicial authority at the time of the surrender.

## ARTICLE 625

### Possible prosecution for other offences

1. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that, in relations with other States to which the same notification applies, consent is presumed to have been given for the prosecution, sentencing or detention of a person with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to the person's surrender, other than that for which that person was surrendered, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

2. Except in the cases referred to in paragraphs 1 and 3, a person surrendered may not be prosecuted, sentenced or otherwise deprived of liberty for an offence committed prior to that person's surrender other than that for which the person was surrendered.

3. Paragraph 2 of this Article does not apply in the following cases:
- (a) the person, having had an opportunity to leave the territory of the State to which that person has been surrendered, has not done so within 45 days of that person's final discharge or has returned to that territory after leaving it;
  - (b) the offence is not punishable by a custodial sentence or detention order;
  - (c) the criminal proceedings do not give rise to the application of a measure restricting personal liberty;
  - (d) the person could be liable to a penalty or a measure not involving the deprivation of liberty, in particular a financial penalty or a measure in lieu of a financial penalty, even if the penalty or measure may give rise to a restriction of the person's personal liberty;
  - (e) the person consented to be surrendered, where appropriate at the same time as the person renounced the speciality rule, in accordance with Article 611;
  - (f) the person, after the person's surrender, has expressly renounced entitlement to the speciality rule with regard to specific offences preceding the person's surrender; renunciation must be given before the competent judicial authority of the issuing State and be recorded in accordance with that State's domestic law; the renunciation must be drawn up in such a way as to make clear that the person concerned has given it voluntarily and in full awareness of the consequences; to that end, the person shall have the right to a lawyer; and

(g) the executing judicial authority which surrendered the person gives its consent in accordance with paragraph 4 of this Article.

4. A request for consent shall be submitted to the executing judicial authority, accompanied by the information referred to in Article 606(1) and a translation as referred to in Article 606(2). Consent shall be given where the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Title. Consent shall be refused on the grounds referred to in Article 600 and otherwise may be refused only on the grounds referred to in Article 601, or Article 602(2) and Article 603(2). The decision shall be taken no later than 30 days after receipt of the request. For the situations laid down in Article 604 the issuing State must give the guarantees provided for therein.

## ARTICLE 626

### Surrender or subsequent extradition

1. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that, in relations with other States to which the same notification applies, the consent for the surrender of a person to a State other than the executing State pursuant to an arrest warrant or European arrest warrant issued for an offence committed prior to that person's surrender is presumed to have been given, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

2. In any case, a person who has been surrendered to the issuing State pursuant to an arrest warrant or European arrest warrant may be surrendered to a State other than the executing State pursuant to an arrest warrant or European arrest warrant issued for any offence committed prior to the person's surrender without the consent of the executing State in the following cases:

- (a) the requested person, having had an opportunity to leave the territory of the State to which that person has been surrendered, has not done so within 45 days of that person's final discharge, or has returned to that territory after leaving it;
- (b) the requested person consents to be surrendered to a State other than the executing State pursuant to an arrest warrant or European arrest warrant; consent must be given before the competent judicial authorities of the issuing State and be recorded in accordance with that State's domestic law; it must be drawn up in such a way as to make clear that the person concerned has given it voluntarily and in full awareness of the consequences; to that end, the requested person shall have the right to a lawyer; and
- (c) the requested person is not subject to the speciality rule, in accordance with point (a), (e), (f) or (g) of Article 625(3).

3. The executing judicial authority shall consent to the surrender to another State in accordance with the following rules:

- (a) the request for consent shall be submitted in accordance with Article 607, accompanied by the information set out in Article 606(1) and a translation as referred to in Article 606(2);

- (b) consent shall be given where the offence for which it is requested is itself subject to surrender in accordance with the provisions of this Agreement;
  - (c) the decision shall be taken no later than 30 days after receipt of the request; and
  - (d) consent shall be refused on the grounds referred to in Article 600 and otherwise may be refused only on the grounds referred to in Article 601, Article 602(2) and Article 603(2).
4. For the situations referred to in Article 604, the issuing State shall give the guarantees provided for therein.
5. Notwithstanding paragraph 1, a person who has been surrendered pursuant to an arrest warrant shall not be extradited to a third country without the consent of the competent authority of the State which surrendered the person. Such consent shall be given in accordance with the Conventions by which that State is bound, as well as with its domestic law.

## ARTICLE 627

### Handing over of property

1. At the request of the issuing judicial authority or on its own initiative, the executing judicial authority shall, in accordance with its domestic law, seize and hand over property which:
- (a) may be required as evidence; or

(b) has been acquired by the requested person as a result of the offence.

2. The property referred to in paragraph 1 shall be handed over even if the arrest warrant cannot be carried out owing to the death or escape of the requested person.

3. If the property referred to in paragraph 1 is liable to seizure or confiscation in the territory of the executing State, that State may, if the property is needed in connection with pending criminal proceedings, temporarily retain it or hand it over to the issuing State on condition that it is returned.

4. Any rights which the executing State or third parties may have acquired in the property referred to in paragraph 1 shall be preserved. Where such rights exist, the issuing State shall return the property without charge to the executing State as soon as the criminal proceedings have been terminated.

## ARTICLE 628

### Expenses

1. Expenses incurred in the territory of the executing State for the execution of an arrest warrant shall be borne by that State.

2. All other expenses shall be borne by the issuing State.

## ARTICLE 629

### Relation to other legal instruments

1. Without prejudice to their application in relations between States and third countries, this Title, from the date of entry into force of this Agreement, replaces the corresponding provisions of the following conventions applicable in the field of extradition in relations between the United Kingdom, on the one side, and Member States, on the other side:

- (a) the European Convention on Extradition, done at Paris on 13 December 1957, and its additional protocols; and
- (b) the European Convention on the Suppression of Terrorism, as far as extradition is concerned.

2. Where the Conventions referred to in paragraph 1 apply to the territories of States or to territories for whose external relations a State is responsible to which this Title does not apply, those Conventions continue to govern the relations existing between those territories and the other States.

## ARTICLE 630

### Review of notifications

When carrying out the joint review of this Title as referred to in Article 691(1), the Parties shall consider the need to maintain the notifications made under Article 599(4), Article 602(2) and Article 603(2). If the notifications referred to in Article 603(2) are not renewed, they shall expire five years after the date of entry into force of this Agreement. Notifications as referred to in Article 603(2) may only be renewed or newly made during the three months prior to the fifth anniversary of the entry into force of this Agreement and, subsequently, every five years thereafter, provided that the conditions set out in Article 603(2) are met at that time.

## ARTICLE 631

### Ongoing arrest warrants in case of disapplication

Notwithstanding Article 526, Article 692 and Article 693, the provisions of this Title apply in respect of arrest warrants where the requested person was arrested before the disapplication of this Title for the purposes of the execution of an arrest warrant, irrespective of the decision of the executing judicial authority as to whether the requested person is to remain in detention or be provisionally released.



## ARTICLE 632

### Application to existing European arrest warrants

This Title shall apply in respect of European arrest warrants issued in accordance with Council Framework Decision 2002/584/JHA<sup>1</sup> by a State before the end of the transition period where the requested person has not been arrested for the purpose of its execution before the end of the transition period.

## TITLE VIII

### MUTUAL ASSISTANCE

## ARTICLE 633

### Objective

1. The objective of this Title is to supplement the provisions, and facilitate the application between Member States, on the one side, and the United Kingdom, on the other side, of:
  - (a) the European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg on 20 April 1959 (the "European Mutual Assistance Convention");

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<sup>1</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ EU L 190, 18.7.2002, p. 1).

- (b) the Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 17 March 1978; and
  - (c) the Second Additional Protocol to the European Mutual Assistance Convention, done at Strasbourg on 8 November 2001.
2. This Title is without prejudice to the provisions of Title IX, which takes precedence over this Title.

## ARTICLE 634

### Definition of competent authority

For the purposes of this Title, "competent authority" means any authority which is competent to send or receive requests for mutual assistance in accordance with the provisions of the European Mutual Assistance Convention and its Protocols and as defined by States in their respective declarations addressed to the Secretary General of the Council of Europe. "Competent authority" also includes Union bodies notified in accordance with point (d) of Article 690; with regard to such Union bodies, the provisions of this Title apply accordingly.

## ARTICLE 635

### Form for a request for mutual assistance

1. The Specialised Committee on Law Enforcement and Judicial Cooperation shall undertake to establish a standard form for requests for mutual assistance by adopting an annex to this Agreement.
2. If the Specialised Committee on Law Enforcement and Judicial Cooperation has adopted a decision in accordance with paragraph 1, requests for mutual assistance shall be made using the standard form.
3. The Specialised Committee on Law Enforcement and Judicial Cooperation may amend the standard form for requests for mutual assistance as may be necessary.

## ARTICLE 636

### Conditions for a request for mutual assistance

1. The competent authority of the requesting State may only make a request for mutual assistance if it is satisfied that the following conditions are met:
  - (a) the request is necessary and proportionate for the purpose of the proceedings, taking into account the rights of the suspected or accused person; and

(b) the investigative measure or investigative measures indicated in the request could have been ordered under the same conditions in a similar domestic case.

2. The requested State may consult the requesting State if the competent authority of the requested State is of the view that the conditions in paragraph 1 are not met. After the consultation, the competent authority of the requesting State may decide to withdraw the request for mutual assistance.

## ARTICLE 637

### Recourse to a different type of investigative measure

1. Wherever possible, the competent authority of the requested State shall consider recourse to an investigative measure other than the measure indicated in the request for mutual assistance if:

- (a) the investigative measure indicated in the request does not exist under the law of the requested State; or
- (b) the investigative measure indicated in the request would not be available in a similar domestic case.

2. Without prejudice to the grounds for refusal available under the European Mutual Assistance Convention and its Protocols and under Article 639, paragraph 1 of this Article does not apply to the following investigative measures, which shall always be available under the law of the requested State:

- (a) the obtaining of information contained in databases held by police or judicial authorities that is directly accessible by the competent authority of the requested State in the framework of criminal proceedings;
- (b) the hearing of a witness, expert, victim, suspected or accused person or third party in the territory of the requested State;
- (c) any non-coercive investigative measure as defined under the law of the requested State; and
- (d) the identification of persons holding a subscription to a specified phone number or IP address.

3. The competent authority of the requested State may also have recourse to an investigative measure other than the measure indicated in the request for mutual assistance if the investigative measure selected by the competent authority of the requested State would achieve the same result by less intrusive means than the investigative measure indicated in the request.

4. If the competent authority of the requested State decides to have recourse to a measure other than that indicated in the request for mutual assistance as referred to in paragraph 1 or 3, it shall first inform the competent authority of the requesting State, which may decide to withdraw or supplement the request.

5. If the investigative measure indicated in the request does not exist under the law of the requested State or would not be available in a similar domestic case, and there is no other investigative measure which would have the same result as the investigative measure requested, the competent authority of the requested State shall inform the competent authority of the requesting State that it is not possible to provide the assistance requested.

## ARTICLE 638

### Obligation to inform

The competent authority of the requested State shall inform the competent authority of the requesting State by any means and without undue delay if:

- (a) it is impossible to execute the request for mutual assistance due to the fact that the request is incomplete or manifestly incorrect; or

- (b) the competent authority of the requested State, in the course of the execution of the request for mutual assistance, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the request for mutual assistance was made, in order to enable the competent authority of the requesting State to take further action in the specific case.

#### ARTICLE 639

#### Ne bis in idem

Mutual assistance may be refused, in addition to the grounds for refusal provided for under the European Mutual Assistance Convention and its Protocols, on the ground that the person in respect of whom the assistance is requested and who is subject to criminal investigations, prosecutions or other proceedings, including judicial proceedings, in the requesting State, has been finally judged by another State in respect of the same acts, provided that, if a penalty has been imposed, it has been enforced, is in the process of being enforced or can no longer be enforced under the law of the sentencing State.

## ARTICLE 640

### Time limits

1. The requested State shall decide whether to execute the request for mutual assistance as soon as possible and in any event no later than 45 days after the receipt of the request and shall inform the requesting State of its decision.
2. A request for mutual assistance shall be executed as soon as possible and in any event no later than 90 days after the decision referred to in paragraph 1 of this Article or after the consultation referred to in Article 636(2) has taken place.
3. If it is indicated in the request for mutual assistance that, due to procedural deadlines, the seriousness of the offence or other particularly urgent circumstances, a shorter time limit than that provided for in paragraph 1 or 2 is necessary, or if it is indicated in the request that a measure for mutual assistance is to be carried out on a specific date, the requested State shall take as full account as possible of that requirement.



4. If a request for mutual assistance is made to take provisional measures pursuant to Article 24 of the Second Additional Protocol to the European Mutual Assistance Convention, the competent authority of the requested State shall decide on the provisional measure, and shall communicate that decision to the competent authority of the requesting State, as soon as possible after the receipt of the request. Before lifting any provisional measure taken pursuant to this Article, the competent authority of the requested State, wherever possible, shall give the competent authority of the requesting State an opportunity to present its reasons in favour of continuing the measure.

5. If in a specific case, the time limit provided for in paragraph 1 or 2, or the time limit or specific date referred to in paragraph 3 cannot be met, or the decision on taking provisional measures in accordance with paragraph 4 is delayed, the competent authority of the requested State shall, without delay, inform the competent authority of the requesting State by any means, giving the reasons for the delay, and shall consult with the competent authority of the requesting State on the appropriate timing to execute the request for mutual assistance.

6. The time limits referred to in this Article do not apply if the request for mutual assistance is made in relation to any of the following offences and infringements that fall within scope of the European Mutual Assistance Convention and its Protocols, as defined in the law of the requesting State:

- (a) speeding, if no injury or death was caused to another person and if the excess speed was not significant;
- (b) failure to wear a seatbelt;

- (c) failure to stop at a red light or other mandatory stop signal;
- (d) failure to wear a safety helmet; or
- (e) using a forbidden lane (such as the forbidden use of an emergency lane, a lane reserved for public transport, or a lane closed down for road works).

7. The Specialised Committee on Law Enforcement and Judicial Cooperation shall keep the operation of paragraph 6 under review. It shall undertake to set time limits for the requests to which paragraph 6 applies within three years of the entry into force of this Agreement, taking into account the volume of requests. It may also decide that paragraph 6 shall no longer apply.

## ARTICLE 641

### Transmission of requests for mutual assistance

1. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, if direct transmission is provided for under their respective provisions, requests for mutual assistance may also be transmitted directly by public prosecutors in the United Kingdom to competent authorities of the Member States.

2. In addition to the channels of communication provided for under the European Mutual Assistance Convention and its Protocols, in urgent cases, any request for mutual assistance, as well as spontaneous information, may be transmitted via Europol or Eurojust, in line with the provisions in the respective Titles of this Agreement.

## ARTICLE 642

### Joint Investigation Teams

If the competent authorities of States set up a Joint Investigation Team, the relationship between Member States within the Joint Investigation Team shall be governed by Union law, notwithstanding the legal basis referred to in the Agreement on the setting up of the Joint Investigation Team.

## TITLE IX

### EXCHANGE OF CRIMINAL RECORD INFORMATION

#### ARTICLE 643

##### Objective

1. The objective of this Title is to enable the exchange between the Members States, on the one side, and the United Kingdom, on the other side, of information extracted from the criminal record.
2. In the relations between the United Kingdom and the Member States, the provisions of this Title:
  - (a) supplement Articles 13 and 22(2) of the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols of 17 March 1978 and 8 November 2001; and
  - (b) replace Article 22(1) of the European Convention on Mutual Assistance in Criminal Matters, as supplemented by Article 4 of its Additional Protocol of 17 March 1978.
3. In the relations between a Member State, on the one side, and the United Kingdom, on the other side, each shall waive the right to rely on its reservations to Article 13 of the European Convention on Mutual Assistance in Criminal Matters and to Article 4 of its Additional Protocol of 17 March 1978.

## ARTICLE 644

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "conviction" means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent that the decision is entered in the criminal record of the convicting State;
- (b) "criminal proceedings" means the pre-trial stage, the trial stage and the execution of a conviction;
- (c) "criminal record" means the domestic register or registers recording convictions in accordance with domestic law.

## ARTICLE 645

### Central authorities

Each State shall designate one or more central authorities that shall be competent for the exchange of information extracted from the criminal record pursuant to this Title and for the exchanges referred to in Article 22(2) of the European Convention on Mutual Assistance in Criminal Matters.

## ARTICLE 646

### Notifications

1. Each State shall take the necessary measures to ensure that all convictions handed down within its territory are accompanied, when provided to its criminal record, by information on the nationality or nationalities of the convicted person if that person is a national of another State.
2. The central authority of each State shall inform the central authority of any other State of all criminal convictions handed down within its territory in respect of nationals of the latter State, as well as of any subsequent alterations or deletions of information contained in the criminal record, as entered in the criminal record. The central authorities of the States shall communicate such information to each other at least once per month.
3. If the central authority of a State becomes aware of the fact that a convicted person is a national of two or more other States, it shall transmit the relevant information to each of those States, even if the convicted person is a national of the State within whose territory that person was convicted.

## ARTICLE 647

### Storage of convictions

1. The central authority of each State shall store all information notified under Article 646.
2. The central authority of each State shall ensure that if a subsequent alteration or deletion is notified under Article 646(2), an identical alteration or deletion is made to the information stored in accordance with paragraph 1 of this Article.
3. The central authority of each State shall ensure that only information which has been updated in accordance with paragraph 2 of this Article is provided when replying to requests made under Article 648.

## ARTICLE 648

### Requests for information

1. If information from the criminal record of a State is requested at domestic level for the purposes of criminal proceedings against a person or for any purposes other than that of criminal proceedings, the central authority of that State may, in accordance with its domestic law, submit a request to the central authority of another State for information and related data to be extracted from the criminal record.

2. If a person asks the central authority of a State other than the State of the person's nationality for information on the person's own criminal record, that central authority shall submit a request to the central authority of the State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include that information and related data in the extract to be provided to the person concerned.

## ARTICLE 649

### Replies to requests

1. Replies to requests for information shall be transmitted by the central authority of the requested State to the central authority of the requesting State as soon as possible and in any event within 20 working days from the date the request was received.
2. The central authority of each State shall reply to requests made for purposes other than that of criminal proceedings in accordance with its domestic law.



3. Notwithstanding paragraph 2, when replying to requests made for the purposes of recruitment for professional or organised voluntary activities involving direct and regular contacts with children, the States shall include information on the existence of criminal convictions for offences related to sexual abuse or sexual exploitation of children, child pornography, solicitation of children for sexual purposes, including inciting, aiding and abetting or attempting to commit any of those offences, as well as information on the existence of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions.

## ARTICLE 650

### Channel of communication

The exchange between States of information extracted from the criminal record shall take place electronically in accordance with the technical and procedural specifications laid down in Annex 44.

## ARTICLE 651

### Conditions for the use of personal data

1. Each State may use personal data received in reply to its request under Article 649 only for the purposes for which they were requested.

2. If the information was requested for any purposes other than that of criminal proceedings, personal data received under Article 649 may be used by the requesting State in accordance with its domestic law only within the limits specified by the requested State in the form set out in Chapter 2 of Annex 44.

3. Notwithstanding paragraphs 1 and 2 of this Article, personal data provided by a State in reply to a request under Article 649 may be used by the requesting State to prevent an immediate and serious threat to public security.

4. Each State shall ensure that their central authorities do not disclose personal data notified under Article 646 to authorities in third countries unless the following conditions are met:

- (a) the personal data are disclosed only on a case-by-case basis;
- (b) the personal data are disclosed to authorities whose functions are directly related to the purposes for which the personal data are disclosed under point (c) of this paragraph;
- (c) the personal data are disclosed only if necessary:
  - (i) for the purposes of criminal proceedings;
  - (ii) for any purposes other than that of criminal proceedings; or
  - (iii) to prevent an immediate and serious threat to public security;

- (d) the personal data may be used by the requesting third country only for the purposes for which the information was requested and within the limits specified by the State that notified the personal data under Article 646; and
  - (e) the personal data are disclosed only if the central authority, having assessed all the circumstances surrounding the transfer of the personal data to the third country, concludes that appropriate safeguards exist to protect the personal data.
2. This Article does not apply to personal data obtained by a State under this Title and originating from that State.

## TITLE X

### ANTI-MONEY LAUNDERING AND COUNTER TERRORIST FINANCING

#### ARTICLE 652

##### Objective

The objective of this Title is to support and strengthen action by the Union and the United Kingdom to prevent and combat money laundering and terrorist financing.

## ARTICLE 653

### Measures to prevent and combat money laundering and terrorist financing

1. The Parties agree to support international efforts to prevent and combat money laundering and terrorist financing. The Parties recognise the need to cooperate in preventing the use of their financial systems to launder the proceeds of all criminal activity, including drug trafficking and corruption, and to combat terrorist financing.
2. The Parties shall exchange relevant information, as appropriate within their respective legal frameworks.
3. The Parties shall each maintain a comprehensive regime to combat money laundering and terrorist financing, and regularly review the need to enhance that regime, taking account of the principles and objectives of the Financial Action Task Force Recommendations.

## ARTICLE 654

### Beneficial ownership transparency for corporate and other legal entities

1. For the purposes of this Article, the following definitions apply:
  - (a) "beneficial owner" means any individual in respect of a corporate entity who, in accordance with the Party's laws and regulations:
    - (i) exercises or has the right to exercise ultimate control over the management of the entity;
    - (ii) ultimately owns or controls directly or indirectly more than 25 % of the voting rights or shares or other ownership interests in the entity, without prejudice to each Party's right to define a lower percentage; or
    - (iii) otherwise controls or has the right to control the entity;

In respect of legal entities such as foundations, Anstalt and limited liability partnerships, each Party has the right to determine similar criteria for identifying the beneficial owner, or, if they choose, to apply the definition set out in point (a) of Article 655(1), having regard to the form and structure of such entities.

In respect of other legal entities not mentioned above, each Party shall take into account the different forms and structures of such entities and the levels of money laundering and terrorist financing risks associated with such entities, with a view to deciding the appropriate levels of beneficial ownership transparency;

- (b) "basic information about a beneficial owner" means the beneficial owner's name, month and year of birth, country of residence and nationality, as well as the nature and extent of the interest held, or control exercised, over the entity by the beneficial owner;
- (c) "competent authorities" means:
  - (i) public authorities, including Financial Intelligence Units, that have designated responsibilities for combating money laundering or terrorist financing;
  - (ii) public authorities that have the function of investigating or prosecuting money laundering, associated predicate offences or terrorist financing, or that have the function of tracing, seizing or freezing and confiscating criminal assets;
  - (iii) public authorities that have supervisory or monitoring responsibilities aimed at ensuring compliance with anti-money laundering or counter terrorist financing requirements.

This definition is without prejudice to each Party's right to identify additional competent authorities that can access information about beneficial owners.

2. Each Party shall ensure that legal entities in its territory maintain adequate, accurate and up-to-date information about beneficial owners. Each Party shall put in place mechanisms to ensure that their competent authorities have timely access to such information.

3. Each Party shall establish or maintain a central register holding adequate, up-to-date and accurate information about beneficial owners. In the case of the Union, the central registers shall be set up at the level of the Member States. This obligation shall not apply in respect of legal entities listed on a stock exchange that are subject to disclosure requirements regarding an adequate level of transparency. Where no beneficial owner is identified in respect of an entity, the register shall hold alternative information, such as a statement that no beneficial owner has been identified or details of the natural person or persons who hold the position of senior managing official in the legal entity.

4. Each Party shall ensure that the information held in its central register or registers is made available to its competent authorities without restriction and in a timely manner.

5. Each Party shall ensure that basic information about beneficial owners is made available to any member of the public. Limited exceptions may be made to the public availability of information under this paragraph in cases where public access would expose the beneficial owner to disproportionate risks, such as risks of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable.

6. Each Party shall ensure that there are effective, proportionate and dissuasive sanctions against legal or natural persons who fail to comply with requirements imposed on them in connection with the matters referred to in this Article.

7. Each Party shall ensure that its competent authorities are able to provide the information referred to in paragraphs 2 and 3 to the competent authorities of the other Party in a timely and effective manner and free of charge. To that end, the Parties shall consider ways to ensure the secure exchange of information.

## ARTICLE 655

### Beneficial ownership transparency of legal arrangements

1. For the purposes of this Article, the following definitions apply:
  - (a) "beneficial owner" means the settlor, the protector (if any), trustees, the beneficiary or class of beneficiaries, any person holding an equivalent position in relation to a legal arrangement with a structure or function similar to an express trust, and any other natural person exercising ultimate effective control over a trust or a similar legal arrangement;
  - (b) "competent authorities" means:
    - (i) public authorities, including Financial Intelligence Units, that have designated responsibilities for combating money laundering or terrorist financing;
    - (ii) public authorities that have the function of investigating or prosecuting money laundering, associated predicate offences or terrorist financing or the function of tracing, seizing or freezing and confiscating criminal assets;



- (iii) public authorities that have supervisory or monitoring responsibilities aimed at ensuring compliance with anti-money laundering or counter terrorist financing requirements.

This definition is without prejudice to each Party's right to identify additional competent authorities that can access information about beneficial owners.

2. Each Party shall ensure that trustees of express trusts maintain adequate, accurate and up-to-date information about beneficial owners. These measures shall also apply to other legal arrangements identified by each Party as having a structure or function similar to trusts.
3. Each Party shall put in place mechanisms to ensure that its competent authorities have timely access to adequate, accurate and up-to-date information about beneficial owners of express trusts and other legal arrangements with a structure or function similar to trusts in its territory.
4. If the beneficial ownership information about trusts or similar legal arrangements is held in a central register, the State concerned shall ensure that the information is adequate, accurate and up-to-date, and that competent authorities have timely and unrestricted access to such information. The Parties shall endeavour to consider ways to provide access to beneficial ownership information about trusts and similar legal arrangements to individuals or organisations who can demonstrate a legitimate interest in seeing such information.
5. Each Party shall ensure that there are effective, proportionate and dissuasive sanctions against legal or natural persons who fail to comply with requirements imposed on them in connection with the matters referred to in this Article.

6. Each Party shall ensure that its competent authorities are able to provide the information referred to in paragraph 3 to the competent authorities of the other Party in a timely and effective manner and free of charge. To that end, the Parties shall consider ways to ensure the secure exchange of information.

## TITLE XI

### FREEZING AND CONFISCATION

#### ARTICLE 656

##### Objective and principles of cooperation

1. The objective of this Title is to provide for cooperation between the United Kingdom, on the one side, and the Member States, on the other side, to the widest extent possible for the purposes of investigations and proceedings aimed at the freezing of property with a view to subsequent confiscation thereof and investigations and proceedings aimed at the confiscation of property within the framework of proceedings in criminal matters. This does not preclude other cooperation pursuant to Article 665(5) and (6). This Title also provides for cooperation with Union bodies designated by the Union for the purposes of this Title.

2. Each State shall comply, under the conditions provided for in this Title, with requests from another State:

- (a) for the confiscation of specific items of property, as well as for the confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;
- (b) for investigative assistance and provisional measures with a view to either form of confiscation referred to in point (a).

3. Investigative assistance and provisional measures sought under point (b) of paragraph 2 shall be carried out as permitted by and in accordance with the domestic law of the requested State. Where the request concerning one of these measures specifies formalities or procedures which are necessary under the domestic law of the requesting State, even if unfamiliar to the requested State, the latter shall comply with such requests to the extent that the action sought is not contrary to the fundamental principles of its domestic law.

4. The requested State shall ensure that the requests coming from another State to identify, trace, freeze or seize the proceeds and instrumentalities, receive the same priority as those made in the framework of domestic procedures.

5. When requesting confiscation, investigative assistance and provisional measures for the purposes of confiscation, the requesting State shall ensure that the principles of necessity and proportionality are respected.

6. The provisions of this Title apply in place of the "international cooperation" Chapters of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done at Warsaw on 16 May 2005 (the "2005 Convention") and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990 (the "1990 Convention"). Article 657 of this Agreement replaces the corresponding definitions in Article 1 of the 2005 Convention and Article 1 of the 1990 Convention. The provisions of this Title do not affect the States' obligations under the other provisions of the 2005 Convention and the 1990 Convention.

## ARTICLE 657

### Definitions

For the purposes of this Title, the following definitions apply:

- (a) "confiscation" means a penalty or a measure ordered by a court following proceedings in relation to a criminal offence or criminal offences, resulting in the final deprivation of property;

- (b) "freezing" or "seizure" means temporarily prohibiting the transfer, destruction, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- (c) "instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;
- (d) "judicial authority" means an authority that is, under domestic law, a judge, a court or a public prosecutor; a public prosecutor is considered a judicial authority only to the extent that domestic law so provides;
- (e) "proceeds" means any economic benefit, derived from or obtained, directly or indirectly, from criminal offences, or an amount of money equivalent to that economic benefit; it may consist of any property as defined in this Article;
- (f) "property" includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such property, which the requesting State considers to be:
  - (i) the proceeds of a criminal offence, or its equivalent, whether the full amount of the value of such proceeds or only part of the value of such proceeds;

- (ii) the instrumentalities of a criminal offence, or the value of such instrumentalities;
- (iii) subject to confiscation under any other provisions relating to powers of confiscation under the law of the requesting State, following proceedings in relation to a criminal offence, including third party confiscation, extended confiscation and confiscation without final conviction.

## ARTICLE 658

### Obligation to assist

The States shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of those instrumentalities, proceeds or other property.

## ARTICLE 659

### Requests for information on bank accounts and safe deposit boxes

1. The requested State shall, under the conditions set out in this Article, take the measures necessary to determine, in answer to a request sent by another State, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in its territory and, if so, provide the details of the identified accounts. These details shall in particular include the name of the customer account holder and the IBAN number, and, in the case of safe deposit boxes, the name of the lessee or a unique identification number.
2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.
3. In addition to the requirements of Article 680, the requesting State shall, in the request:
  - (a) indicate why it considers that the requested information is likely to be of substantial value for the purposes of the criminal investigation into the offence;
  - (b) state on what grounds it presumes that banks in the requested State hold the account and specify, to the widest extent possible, which banks and accounts may be involved; and
  - (c) include any additional information available which may facilitate the execution of the request.

4. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

## ARTICLE 660

### Requests for information on banking transactions

1. On request by another State, the requested State shall provide the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.
2. The obligation set out in paragraph 1 applies only to the extent that the information is in the possession of the bank keeping the account.
3. In addition to the requirements of Article 680, the requesting State shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.
4. The requested State may make the execution of such a request dependent on the same conditions as it applies in respect of requests for search and seizure.



5. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

## ARTICLE 661

### Requests for the monitoring of banking transactions

1. The requested State shall ensure that, at the request of another State, it is able to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified in the request and to communicate the results of the monitoring to the requesting State.
2. In addition to the requirements of Article 680, the requesting State shall indicate in its request why it considers the requested information relevant for the purposes of the criminal investigation into the offence.
3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested State, in accordance with its domestic law.
4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested States.

5. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that this Article will be extended to accounts held in non-bank financial institutions. Such notifications may be made subject to the principle of reciprocity.

## ARTICLE 662

### Spontaneous information

Without prejudice to its own investigations or proceedings, a State may without prior request forward to another State information on instrumentalities, proceeds and other property liable to confiscation, where it considers that the disclosure of such information might assist the receiving State in initiating or carrying out investigations or proceedings or might lead to a request by that State under this Title.

## ARTICLE 663

### Obligation to take provisional measures

1. At the request of another State which has instituted a criminal investigation or proceedings, or an investigation or proceedings for the purposes of confiscation, the requested State shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might satisfy the request.

2. A State which has received a request for confiscation pursuant to Article 665 shall, if so requested, take the measures referred to in paragraph 1 of this Article in respect of any property which is the subject of the request or which might satisfy the request.
3. Where a request is received under this Article, the requested State shall take all necessary measures to comply with the request without delay and with the same speed and priority as for a similar domestic case and send confirmation without delay and by any means of producing a written record to the requesting State.
4. Where the requesting State states that immediate freezing is necessary since there are legitimate grounds to believe that the property in question will immediately be removed or destroyed, the requested State shall take all necessary measures to comply with the request within 96 hours of receiving the request and send confirmation to the requesting State by any means of producing a written record and without delay.
5. Where the requested State is unable to comply with the time limits under paragraph 4, the requested State shall immediately inform the requesting State, and consult with the requesting State on the appropriate next steps.
6. Any expiration of the time limits under paragraph 4 does not extinguish the requirements placed on the requested State by this Article.

## ARTICLE 664

### Execution of provisional measures

1. After the execution of the provisional measures requested in conformity with Article 663(1), the requesting State shall provide spontaneously and as soon as possible to the requested State all information which may question or modify the extent of those measures. The requesting State shall also provide without delay all complementary information required by the requested State and which is necessary for the implementation of and the follow-up to the provisional measures.
2. Before lifting any provisional measure taken pursuant to Article 663, the requested State shall, wherever possible, give the requesting State an opportunity to present its reasons in favour of continuing the measure.

## ARTICLE 665

### Obligation to confiscate

1. The State which has received a request for confiscation of property situated in its territory shall:
  - (a) enforce a confiscation order made by a court of the requesting State in relation to such property; or

- (b) submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, enforce it.
2. For the purposes of point (b) of paragraph 1, the States shall, whenever necessary, have competence to institute confiscation proceedings under their own domestic law.
  3. Paragraph 1 also applies to confiscation consisting in a requirement to pay a sum of money corresponding to the value of proceeds, if property against which the confiscation can be enforced is located in the requested State. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested State shall, if payment is not obtained, realise the claim on any property available for that purpose.
  4. If a request for confiscation concerns a specific item of property, the requesting State and requested State may agree that the requested State may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.
  5. A State shall cooperate to the widest extent possible under its domestic law with a State requesting the execution of measures equivalent to confiscation of property, where the request has not been issued in the framework of proceedings in criminal matters, in so far as such measures are ordered by a judicial authority of the requesting State in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or:
    - (a) other property into which the proceeds have been transformed or converted;

- (b) property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds; or
  - (c) income or other benefit derived from the proceeds, from property into which proceeds of crime have been transformed or converted or from property with which the proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.
6. The measures referred to in paragraph 5 include measures which allow the seizure, detention and forfeiture of property and assets by means of applications to civil courts.
7. The requested State shall take the decision on the execution of the confiscation order without delay, and, without prejudice to paragraph 8 of this Article, no later than 45 days after receiving the request. The requested State shall send confirmation to the requesting State by any means of producing a written record and without delay. Unless grounds for postponement under Article 672 exist, the requested State shall take the concrete measures necessary to execute the confiscation order without delay and, at least, with the same speed and priority as for a similar domestic case.
8. Where the requested State is unable to comply with the time limit under paragraph 7, the requested State shall immediately inform the requesting State, and consult with the requesting State on the appropriate next steps.
9. Any expiration of the time limit under paragraph 7 does not extinguish the requirements placed on the requested State by this Article.

## ARTICLE 666

### Execution of confiscation

1. The procedures for obtaining and enforcing the confiscation under Article 665 shall be governed by the domestic law of the requested State.
2. The requested State shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision issued by a court of the requesting State or in so far as such conviction or judicial decision is implicitly based on them.
3. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested State shall convert the amount thereof into the currency of that State at the rate of exchange applicable at the time when the decision to enforce the confiscation is taken.

## ARTICLE 667

### Confiscated property

1. Subject to paragraphs 2 and 3 of this Article, property confiscated pursuant to Articles 665 and 666 shall be disposed of by the requested State in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State pursuant to Article 665, the requested State shall, to the extent permitted by its domestic law and if so requested, give priority consideration to returning the confiscated property to the requesting State so that it can give compensation to the victims of the crime or return such property to their legitimate owners.

3. Where acting on the request made by another State in accordance with Article 665, and after having taken into account the right of a victim to restitution or compensation of property pursuant to paragraph 2 of this Article, the requested State shall dispose of the money obtained as a result of the execution of a confiscation order as follows:

- (a) if the amount is equal to or less than EUR 10 000, the amount shall accrue to the requested State; or
- (b) if the amount is greater than EUR 10 000, the requested State shall transfer 50 % of the amount recovered to the requesting State.

4. Notwithstanding paragraph 3, the requesting State and requested State may, on a case-by-case basis, give special consideration to concluding other such agreements or arrangements on disposal of property as they deem appropriate.



## ARTICLE 668

### Right of enforcement and maximum amount of confiscation

1. A request for confiscation made under Article 665 does not affect the right of the requesting State to enforce the confiscation order itself.
2. Nothing in this Title shall be interpreted as permitting the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a State finds that this might occur, the States concerned shall enter into consultations to avoid such an effect.

## ARTICLE 669

### Imprisonment in default

The requested State shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under Article 665 without the consent of the requesting State.

## ARTICLE 670

### Grounds for refusal

1. Cooperation under this Title may be refused if:
  - (a) the requested State considers that executing the request would be contrary to the principle of *ne bis in idem*; or
  - (b) the offence to which the request relates does not constitute an offence under the domestic law of the requested State if committed within its jurisdiction; however, this ground for refusal applies to cooperation under Articles 658 to 662 only in so far as the assistance sought involves coercive action.
2. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that, on the basis of reciprocity, the condition of double criminality referred to in point (b) of paragraph 1 of this Article will not be applied provided that the offence giving rise to the request is:
  - (a) one of the offences listed in Article 599(5), as defined by the law of the requesting State; and
  - (b) punishable by the requesting State by a custodial sentence or a detention order for a maximum period of at least three years.

3. Cooperation under Articles 658 to 662, in so far as the assistance sought involves coercive action, and under Articles 663 and 664 may also be refused if the measures sought could not be taken under the domestic law of the requested State for the purposes of investigations or proceedings in a similar domestic case.
  
4. Where the domestic law of the requested State so requires, cooperation under Articles 658 to 662, in so far as the assistance sought involves coercive action, and under Articles 663 and 664 may also be refused if the measures sought or any other measures having similar effects would not be permitted under the domestic law of the requesting State, or, as regards the competent authorities of the requesting State, if the request is not authorised by a judicial authority acting in relation to criminal offences.
  
5. Cooperation under Articles 665 to 669 may also be refused if:
  - (a) under the domestic law of the requested State, confiscation is not provided for in respect of the type of offence to which the request relates;
  
  - (b) without prejudice to the obligation pursuant to Article 665(3), it would be contrary to the principles of the domestic law of the requested State concerning the limits of confiscation in respect of the relationship between an offence and:
    - (i) an economic advantage that might be qualified as its proceeds; or
  
    - (ii) property that might be qualified as its instrumentalities;

- (c) under the domestic law of the requested State, confiscation may no longer be imposed or enforced because of the lapse of time;
- (d) without prejudice to Article 665(5) and (6), the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought;
- (e) confiscation is either not enforceable in the requesting State, or it is still subject to ordinary means of appeal; or
- (f) the request relates to a confiscation order resulting from a decision rendered in absentia of the person against whom the order was issued and, in the opinion of the requested State, the proceedings conducted by the requesting State leading to such decision did not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.

6. For the purposes of point (f) of paragraph 5 a decision is not considered to have been rendered in absentia if:

- (a) it has been confirmed or pronounced after opposition by the person concerned; or
- (b) it has been rendered on appeal, provided that the appeal was lodged by the person concerned.

7. When considering, for the purposes of point (f) of paragraph 5, whether the minimum rights of defence have been satisfied, the requested State shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made in absentia, elected not to do so. The same applies where the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.

8. The States shall not invoke bank secrecy as a ground to refuse any cooperation under this Title. Where its domestic law so requires, a requested State may require that a request for cooperation which would involve the lifting of bank secrecy be authorised by a judicial authority acting in relation to criminal offences.

9. The requested State shall not invoke the fact that:

- (a) the person under investigation or subject to a confiscation order by the authorities of the requesting State is a legal person as an obstacle to affording any cooperation under this Title;
- (b) the natural person against whom an order of confiscation of proceeds has been issued has died or a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved as an obstacle to affording assistance in accordance with point (a) of Article 665(1); or

- (c) the person under investigation or subject to a confiscation order by the authorities of the requesting State is mentioned in the request both as the author of the underlying criminal offence and of the offence of money laundering as an obstacle to affording any cooperation under this Title.

## ARTICLE 671

### Consultation and information

Where there are substantial grounds for believing that the execution of a freezing or confiscation order would entail a real risk for the protection of fundamental rights, the requested State shall, before it decides on the execution of the freezing or confiscation order, consult the requesting State and may require any necessary information to be provided.

## ARTICLE 672

### Postponement

The requested State may postpone action on a request if such action would prejudice investigations or proceedings by its authorities.

## ARTICLE 673

### Partial or conditional granting of a request

Before refusing or postponing cooperation under this Title, the requested State shall, where appropriate after having consulted the requesting State, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

## ARTICLE 674

### Notification of documents

1. The States shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.
2. Nothing in this Article is intended to interfere with:
  - (a) the possibility of sending judicial documents, by postal channels, directly to persons abroad;  
and

(b) the possibility for judicial officers, officials or other competent authorities of the State of origin to effect service of judicial documents directly through the consular authorities of that State or through the judicial authorities, including judicial officers and officials, or other competent authorities of the State of destination.

3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending State, that State shall indicate what legal remedies are available under its domestic law to such persons.

## ARTICLE 675

### Recognition of foreign decisions

1. When dealing with a request for cooperation under Articles 663 to 669 the requested State shall recognise any decision issued by a judicial authority taken in the requesting State regarding rights claimed by third parties.

2. Recognition may be refused if:

(a) third parties did not have adequate opportunity to assert their rights;

(b) the decision is incompatible with a decision already taken in the requested State on the same matter;



- (c) it is incompatible with the *ordre public* of the requested State; or
- (d) the decision was taken contrary to provisions on exclusive jurisdiction provided for by the domestic law of the requested State.

## ARTICLE 676

### Authorities

1. Each State shall designate a central authority to be responsible for sending and answering requests made under this Title, the execution of such requests or their transmission to the authorities competent for their execution.
2. The Union may designate a Union body which may, in addition to the competent authorities of the Member States, make and, if appropriate, execute requests under this Title. Any such request is to be treated for the purposes of this Title as a request by a Member State. The Union may also designate that Union body as the central authority responsible for the purpose of sending and answering requests made under this Title by, or to, that body.

## ARTICLE 677

### Direct communication

1. The central authorities shall communicate directly with one another.
2. In urgent cases, requests or communications under this Title may be sent directly by the judicial authorities of the requesting State to judicial authorities of the requested State. In such cases, a copy shall be sent at the same time to the central authority of the requested State through the central authority of the requesting State.
3. Where a request is made pursuant to paragraph 2 and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and shall directly inform the requesting State that it has done so.
4. Requests or communications under Articles 658 to 662, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting State to the competent authorities of the requested State.
5. Draft requests or communications under this Title may be sent directly by the judicial authorities of the requesting State to the judicial authorities of the requested State prior to a formal request to ensure that the formal request can be dealt with efficiently upon receipt and that it contains sufficient information and supporting documentation for it to meet the requirements of the law of the requested State.

## ARTICLE 678

### Form of request and languages

1. All requests under this Title shall be made in writing. They may be transmitted electronically, or by any other means of telecommunication, provided that the requesting State is prepared, upon request, to produce a written record of such communication and the original at any time.
2. Requests under paragraph 1 shall be made in one of the official languages of the requested State or in any other language notified by or on behalf of the requested State in accordance with paragraph 3.
3. The United Kingdom and the Union, acting on behalf of any of its Member States, may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation of the language or languages which, in addition to the official language or languages of that State, may be used for making requests under this Title.
4. Requests under Article 663 for provisional measures shall be made using the prescribed form at Annex 46.
5. Requests under Article 665 for confiscation shall be made using the prescribed form at Annex 46.

6. The Specialised Committee on Law Enforcement and Judicial Cooperation may amend the forms referred to in paragraphs 4 and 5 as may be necessary.

7. The United Kingdom and the Union, acting on behalf of any of its Member States may each notify the Specialised Committee on Law Enforcement and Judicial Cooperation that it requires the translation of any supporting documents into one of the official languages of the requested State or any other language indicated in accordance with paragraph 3 of this Article. In the case of requests pursuant to Article 663(4), such translation of supporting documents may be provided to the requested State within 48 hours after transmitting the request, without prejudice to the time limits provided for in Article 663(4).

## ARTICLE 679

### Legalisation

Documents transmitted in application of this Title shall be exempt from all legalisation formalities.

## ARTICLE 680

### Content of request

1. Any request for cooperation under this Title shall specify:
  - (a) the authority making the request and the authority carrying out the investigations or proceedings;
  - (b) the object of and the reason for the request;
  - (c) the matters, including the relevant facts (such as date, place and circumstances of the offence) to which the investigations or proceedings relate, except in the case of a request for notification;
  - (d) insofar as the cooperation involves coercive action:
    - (i) the text of the statutory provisions or, where that is not possible, a statement of the relevant applicable law; and
    - (ii) an indication that the measure sought or any other measures having similar effects could be taken in the territory of the requesting State under its own domestic law;

- (e) where necessary and in so far as possible:
  - (i) details of the person or persons concerned, including name, date and place of birth, nationality and location, and, in the case of a legal person, its seat; and
  - (ii) the property in relation to which cooperation is sought, its location, its connection with the person or persons concerned, any connection with the offence, as well as any available information about other persons, interests in the property; and
- (f) any particular procedure the requesting State wishes to be followed.

2. A request for provisional measures under Article 663 in relation to seizure of property on which a confiscation order consisting of the requirement to pay a sum of money may be realised shall also indicate a maximum amount for which recovery is sought in that property.

3. In addition to the information referred to in paragraph 1 of this Article, any request under Article 665 shall contain:

- (a) in the case of point (a) of Article 665(1):
  - (i) a certified true copy of the confiscation order made by the court in the requesting State and a statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself;

- (ii) an attestation by the competent authority of the requesting State that the confiscation order is enforceable and not subject to ordinary means of appeal;
  - (iii) information as to the extent to which the enforcement of the order is requested; and
  - (iv) information as to the necessity of taking any provisional measures;
- (b) in the case of point (b) of Article 665(1), a statement of the facts relied upon by the requesting State sufficient to enable the requested State to seek the order under its domestic law;
- (c) where third parties have had the opportunity to claim rights, documents demonstrating that this has been the case.

## ARTICLE 681

### Defective requests

1. If a request does not comply with the provisions of this Title or the information supplied is not sufficient to enable the requested State to deal with the request, that State may ask the requesting State to amend the request or to complete it with additional information.
2. The requested State may set a time limit for the receipt of such amendments or information.

3. Pending receipt of the requested amendments or information in relation to a request under Article 665, the requested State may take any of the measures referred to in Articles 658 to 664.

## ARTICLE 682

### Plurality of requests

1. Where the requested State receives more than one request under Article 663 or Article 665 in respect of the same person or property, the plurality of requests shall not prevent that State from dealing with the requests involving the taking of provisional measures.
2. In the case of a plurality of requests under Article 665, the requested State shall consider consulting the requesting States.

## ARTICLE 683

### Obligation to give reasons

The requested State shall give reasons for any decision to refuse, postpone or make conditional any cooperation under this Title.



## ARTICLE 684

### Information

1. The requested State shall promptly inform the requesting State of:
  - (a) the action initiated on the basis of a request under this Title;
  - (b) the final result of the action carried out on the basis of a request under this Title;
  - (c) a decision to refuse, postpone or make conditional, in whole or in part, any cooperation under this Title;
  - (d) any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly; and
  - (e) in the event of provisional measures taken pursuant to a request under Articles 658 to Article 663, such provisions of its domestic law as would automatically lead to the lifting of the provisional measure.
2. The requesting State shall promptly inform the requested State of:
  - (a) any review, decision or any other fact by reason of which the confiscation order ceases to be wholly or partially enforceable; and

(b) any development, factual or legal, by reason of which any action under this Title is no longer justified.

3. Where a State, on the basis of the same confiscation order, requests confiscation in more than one State, it shall inform all States which are affected by the enforcement of the order about the request.

## ARTICLE 685

### Restriction of use

1. The requested State may make the execution of a request dependent on the condition that the information or evidence obtained is not, without its prior consent, to be used or transmitted by the authorities of the requesting State for investigations or proceedings other than those specified in the request.

2. Without the prior consent of the requested State, information or evidence provided by it under this Title shall not be used or transmitted by the authorities of the requesting State in investigations or proceedings other than those specified in the request.

3. Personal data communicated under this Title may be used by the State to which they have been transferred:

- (a) for the purposes of proceedings to which this Title applies;
- (b) for other judicial and administrative proceedings directly related to proceedings referred to in point (a);
- (c) for preventing an immediate and serious threat to public security; or
- (d) for any other purpose, only with the prior consent of the communicating State, unless the State concerned has obtained the consent of the data subject.

4. This Article shall also apply to personal data not communicated but obtained otherwise under this Title.

5. This Article does not apply to personal data obtained by the United Kingdom or a Member State under this Title and originating from that State.

## ARTICLE 686

### Confidentiality

1. The requesting State may require that the requested State keep confidential the facts and substance of the request, except to the extent necessary to execute the request. If the requested State cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State.
2. The requesting State shall, if not contrary to basic principles of its domestic law and if so requested, keep confidential any evidence and information provided by the requested State, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.
3. Subject to the provisions of its domestic law, a State which has received spontaneous information under Article 662 shall comply with any requirement of confidentiality as required by the State which supplies the information. If the receiving State cannot comply with such a requirement, it shall promptly inform the transmitting State.

## ARTICLE 687

### Costs

The ordinary costs of complying with a request shall be borne by the requested State. Where costs of a substantial or extraordinary nature are necessary to comply with a request, the requesting and requested States shall consult in order to agree the conditions on which the request is to be executed and how the costs will be borne.

## ARTICLE 688

### Damages

1. Where legal action on liability for damages resulting from an act or omission in relation to cooperation under this Title has been initiated by a person, the States concerned shall consider consulting each other, where appropriate, to determine how to apportion any sum of damages due.
2. A State which has become the subject of litigation for damages shall endeavour to inform the other State of such litigation if that State might have an interest in the case.

## ARTICLE 689

### Legal remedies

1. Each State shall ensure that persons affected by measures under Articles 663 to 666 have effective legal remedies in order to preserve their rights.
2. The substantive reasons for requested measures under Articles 663 to 666 shall not be challenged before a court in the requested State.

## TITLE XII

### OTHER PROVISIONS

## ARTICLE 690

### Notifications

1. By the date of entry into force of this Agreement, the Union and the United Kingdom shall make any of the notifications provided for in Article 602(2), Article 603(2), and Article 611(4) and shall, to the extent it is possible to do so, indicate whether no such notification is to be made.

To the extent that such a notification or indication has not been made in relation to a State, at the point in time referred to in the first subparagraph, notifications may be made in relation to that State as soon as possible and at the latest two months after the entry into force of this Agreement.

During that interim period, any State in relation to which no notification provided for in Article 602(2), Article 603(2), or Article 611(4) has been made, and which has not been the subject of an indication that no such notification is to be made, may avail itself of the possibilities provided for in that Article as if such a notification had been made in respect of that State. In the case of Article 603(2), a State may only avail itself of the possibilities provided for in that Article to the extent that to do so is compatible with the criteria for making a notification.

2. The notifications referred to in Article 599(4), Article 605(1), Article 606(2), Article 625(1), Article 626(1), Article 659(4), Article 660(5), Article 661(5), Article 670(2), and Article 678(3) and (7) may be made at any time.

3. The notifications referred to in Article 605(1), Article 606(2) and Article 678(3) and (7) may be modified at any time.

4. The notifications referred to in Article 602(2), Article 603(2), Article 605(1), Article 611(4), Article 659(4), Article 660(5), and Article 661(5) may be withdrawn at any time.

5. The Union shall publish information on notifications of the United Kingdom referred to in Article 605(1) in the *Official Journal of the European Union*.

6. By the date of entry into force of this Agreement, the United Kingdom shall notify the Union of the identity of the following authorities:

- (a) the authority responsible for receiving and processing PNR data under Title III;
- (b) the authority considered as the competent law enforcement authority for the purposes of Title V and a short description of its competences;
- (c) the national contact point designated under Article 568(1);
- (d) the authority considered as the competent authority for the purposes of Title VI and a short description of its competences;
- (e) the contact point designated under Article 584(1);
- (f) the United Kingdom Domestic Correspondent for Terrorism Matters designated under Article 584(2);
- (g) the authority competent by virtue of domestic law of the United Kingdom to execute an arrest warrant, as referred to in point (c) of Article 598, and the authority competent by virtue of the domestic law of the United Kingdom to issue an arrest warrant, as referred to in point (d) of Article 598;



- (h) the authority designated by the United Kingdom under Article 623(3);
- (i) the central authority designated by the United Kingdom under Article 645;
- (j) the central authority designated by the United Kingdom under Article 676(1).

The Union shall publish information about the authorities referred to in the first subparagraph in the *Official Journal of the European Union*.

7. By the date of entry into force of this Agreement, the Union shall, on its behalf or on behalf of its Member States as the case may be, notify the United Kingdom, of the identity of the following authorities:

- (a) the Passenger Information Units established or designated by each Member State for the purposes of receiving and processing PNR data under Title III;
- (b) the authority competent by virtue of the domestic law of each Member State to execute an arrest warrant, as referred to in point (c) of Article 598, and the authority competent by virtue of the domestic law of each Member State to issue an arrest warrant, as referred to in point (d) of Article 598;
- (c) the authority designated for each Member State under Article 623(3);
- (d) the Union body referred to in Article 634;

- (e) the central authority designated by each Member State under Article 645;
- (f) the central authority designated by each Member State under Article 676(1);
- (g) any Union body designated under the first sentence of Article 676(2) and whether it is also designated as a central authority under the last sentence of that paragraph.

8. The notifications made under paragraph 6 or 7 may be modified at any time. Such modifications shall be notified to the Specialised Committee on Law Enforcement and Judicial Cooperation.

9. The United Kingdom and the Union may notify more than one authority with respect to points (a), (b), (d), (e), (g), (h), (i) and (j) of paragraph 6 and with respect to paragraph 7 respectively and may limit such notifications for particular purposes only.

10. Where the Union makes the notifications referred to in this Article, it shall indicate to which of its Member States the notification applies or whether it is making the notification on its own behalf.

## ARTICLE 691

### Review and evaluation

1. This Part shall be jointly reviewed in accordance with Article 776 or at the request of either Party where jointly agreed.
2. The Parties shall decide in advance on how the review is to be conducted and shall communicate to each other the composition of their respective review teams. The review teams shall include persons with appropriate expertise with respect to the issues under review. Subject to applicable laws, all participants in a review shall be required to respect the confidentiality of the discussions and to have appropriate security clearances. For the purposes of such reviews, the United Kingdom and the Union shall make arrangements for appropriate access to relevant documentation, systems and personnel.
3. Without prejudice to paragraph 2, the review shall in particular address the practical implementation, interpretation and development of this Part.

## ARTICLE 692

### Termination

1. Without prejudice to Article 779, each Party may at any moment terminate this Part by written notification through diplomatic channels. In that event, this Part shall cease to be in force on the first day of the ninth month following the date of notification.
2. However, if this Part is terminated on account of the United Kingdom or a Member State having denounced the European Convention on Human Rights or Protocols 1, 6 or 13 thereto, this Part shall cease to be in force as of the date that such denunciation becomes effective or, if the notification of its termination is made after that date, on the fifteenth day following such notification.
3. If either Party gives notice of termination under this Article, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what measures are needed to ensure that any cooperation initiated under this Part is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under this Part before it ceases to be in force, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the termination takes effect.

## ARTICLE 693

### Suspension

1. In the event of serious and systemic deficiencies within one Party as regards the protection of fundamental rights or the principle of the rule of law, the other Party may suspend this Part or Titles thereof, by written notification through diplomatic channels. Such notification shall specify the serious and systemic deficiencies on which the suspension is based.
2. In the event of serious and systemic deficiencies within one Party as regards the protection of personal data, including where those deficiencies have led to a relevant adequacy decision ceasing to apply, the other Party may suspend this Part or Titles thereof, by written notification through diplomatic channels. Such notification shall specify the serious and systemic deficiencies on which the suspension is based.
3. For the purposes of paragraph 2, "relevant adequacy decision" means:
  - (a) in relation to the United Kingdom, a decision adopted by the European Commission, in accordance with Article 36 of Directive (EU) 2016/680 of the European Parliament and of the Council<sup>1</sup> or analogous successor legislation, attesting to the adequate level of protection;

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<sup>1</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ EU L 119, 4.5.2016, p. 89).

(b) in relation to the Union, a decision adopted by the United Kingdom attesting to the adequate level of protection for the purposes of transfers falling within the scope of Part 3 of the Data Protection Act 2018<sup>1</sup> or analogous successor legislation.

4. In relation to the suspension of Title III or Title X, references to a "relevant adequacy decision" also include:

(a) in relation to the United Kingdom, a decision adopted by the European Commission, in accordance with Article 45 of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>2</sup> (General Data Protection Regulation) or analogous successor legislation attesting to the adequate level of protection;

(b) in relation to the Union, a decision adopted by the United Kingdom attesting to the adequate level of protection for the purposes of transfers falling within the scope of Part 2 of the Data Protection Act 2018 or analogous successor legislation.

5. The Titles concerned by the suspension shall provisionally cease to apply on the first day of the third month following the date of the notification referred to in paragraph 1 or 2, unless, no later than two weeks before the expiry of that period, as extended, as the case may be, in accordance with point (d) of paragraph 7, the Party which notified the suspension gives written notification to the other Party, through diplomatic channels, of its withdrawal of the first notification or of a reduction in scope of the suspension. In the latter case, only the Titles referred to in the second notification shall provisionally cease to apply.

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<sup>1</sup> 2018 chapter 12.

<sup>2</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) (OJ EU L 119, 4.5.2016, p. 1).

6. If one Party notifies the suspension of one or several Titles of this Part pursuant to paragraph 1 or 2, the other Party may suspend all of the remaining Titles, by written notification through diplomatic channels, with three months' notice.

7. Upon the notification of a suspension pursuant to paragraph 1 or 2, the Partnership Council shall immediately be seized of the matter. The Partnership Council shall explore possible ways of allowing the Party that notified the suspension to postpone its entry into effect, to reduce its scope or to withdraw it. To that end, upon a recommendation of the Specialised Committee on Law Enforcement and Judicial Cooperation, the Partnership Council may:

- (a) agree on joint interpretations of provisions of this Part;
- (b) recommend any appropriate action to the Parties;
- (c) adopt appropriate adaptations to this Part which are necessary to address the reasons underlying the suspension, with a maximum validity of 12 months; and
- (d) extend the period referred to in paragraph 5 by up to three months.

8. If either Party gives notification of suspension under this Article, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what measures are needed to ensure that any cooperation initiated under this Part and affected by the notification is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under this Part before the Titles concerned by the suspension provisionally cease to apply, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the suspension takes effect.

9. The suspended Titles shall be reinstated on the first day of the month following the day on which the Party having notified the suspension pursuant to paragraph 1 or 2 has given written notification to the other Party, through diplomatic channels, of its intention to reinstate the suspended Titles. The Party having notified the suspension pursuant to paragraph 1 or 2 shall do so immediately after the serious and systemic deficiencies on the part of the other Party on which the suspension was based have ceased to exist.

10. Upon the notification of the intention to reinstate the suspended Titles in accordance with paragraph 9, the remaining Titles suspended pursuant to paragraph 6 shall be reinstated at the same time as the Titles suspended pursuant to paragraph 1 or 2.



## ARTICLE 694

### Expenses

The Parties and the Member States, including institutions, bodies, offices and agencies of the Parties or the Member States, shall bear their own expenses which arise in the course of implementation of this Part, unless otherwise provided for in this Agreement.

## TITLE XIII

### DISPUTE SETTLEMENT

## ARTICLE 695

### Objective

The objective of this Title is to establish a swift, effective and efficient mechanism for avoiding and settling disputes between the Parties concerning this Part, including disputes concerning this Part when applied to situations governed by other provisions of this Agreement, with a view to reaching a mutually agreed solution, where possible.

## ARTICLE 696

### Scope

1. This Title applies to disputes between the Parties concerning this Part (the "covered provisions").
2. The covered provisions shall include all provisions of this Part, with the exception of Articles 526 and 541, Article 552(14), Articles 562, 692, 693 and 700.

## ARTICLE 697

### Exclusivity

The Parties undertake not to submit a dispute between them regarding this Part to a mechanism of settlement other than that provided for in this Title.

## ARTICLE 698

### Consultations

1. If a Party (the "complaining Party") considers that the other Party (the "responding Party") has breached an obligation under this Part, the Parties shall endeavour to resolve the matter by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.

2. The complaining Party may seek consultations by means of a written request delivered to the responding Party. The complaining Party shall specify in its written request the reasons for the request, including identification of the acts or omissions that the complaining Party considers as giving rise to the breach of an obligation by the responding Party, specifying the covered provisions it considers applicable.
3. The responding Party shall reply to the request promptly, and no later than two weeks after the date of its delivery. Consultations shall be held regularly within a period of three months following the date of delivery of the request in person or by any other means of communication agreed by the Parties.
4. The consultations shall be concluded within three months of the date of delivery of the request, unless the Parties agree to continue the consultations.
5. The complaining Party may request that the consultations be held in the framework of the Specialised Committee on Law Enforcement and Judicial Cooperation or in the framework of the Partnership Council. The first meeting shall take place within one month of the request for consultations referred to in paragraph 2 of this Article. The Specialised Committee on Law Enforcement and Judicial Cooperation may at any time decide to refer the matter to the Partnership Council. The Partnership Council may also seize itself of the matter. The Specialised Committee on Law Enforcement and Judicial Cooperation, or as the case may be, the Partnership Council, may resolve the dispute by a decision. Such a decision shall be considered a mutually agreed solution within the meaning of Article 699.

6. The complaining Party may at any time unilaterally withdraw its request for consultations. In such a case, the consultations shall be terminated immediately.
7. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential.

## ARTICLE 699

### Mutually agreed solution

1. The Parties may at any time reach a mutually agreed solution with respect to any dispute referred to in Article 696.
2. The mutually agreed solution may be adopted by means of a decision of the Specialised Committee on Law Enforcement and Judicial Cooperation or the Partnership Council. Where the mutually agreed solution consists of an agreement on joint interpretations of provisions of this Part by the Parties, that mutually agreed solution shall be adopted by means of a decision of the Partnership Council.
3. Each Party shall take the measures necessary to implement the mutually agreed solution within the agreed time period.
4. No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures taken to implement the mutually agreed solution.

## ARTICLE 700

### Suspension

1. Where consultations under Article 698 have not led to a mutually agreed solution within the meaning of Article 699, provided that the complaining Party has not withdrawn its request for consultations in accordance with Article 698(6), and where it considers that the respondent Party is in serious breach of its obligations under the covered provisions referred to in Article 698(2), the complaining Party may suspend the Titles of this Part to which the serious breach pertains, by written notification through diplomatic channels. Such notification shall specify the serious breach of obligations by the responding Party on which the suspension is based.
2. The Titles concerned by the suspension shall provisionally cease to apply on the first day of the third month following the date of the notification referred to in paragraph 1 or any other date mutually agreed by the Parties, unless, no later than two weeks before the expiry of that period, the complaining Party gives written notification to the responding Party, through diplomatic channels, of its withdrawal of the first notification or of a reduction in scope of the suspension. In the latter case, only the Titles referred to in the second notification shall provisionally cease to apply.
3. If the complaining Party notifies the suspension of one or several Titles of this Part pursuant to paragraph 1, the respondent Party may suspend all of the remaining Titles, by written notification through diplomatic channels, with three months' notice.

4. If a notification of suspension is given under this Article, the Specialised Committee on Law Enforcement and Judicial Cooperation shall meet to decide what measures are needed to ensure that any cooperation initiated under this Part and affected by the notification is concluded in an appropriate manner. In any event, with regard to all personal data obtained through cooperation under this Part before the Titles concerned by the suspension provisionally cease to apply, the Parties shall ensure that the level of protection under which the personal data were transferred is maintained after the suspension takes effect.

5. The suspended Titles shall be reinstated on the first day of the month following the date on which the complaining Party has given written notification to the respondent Party, through diplomatic channels, of its intention to reinstate the suspended Titles. The complaining Party shall do so immediately when it considers that the serious breach of the obligations on which the suspension was based has ceased to exist.

6. Upon notification by the complaining Party of its intention to reinstate the suspended Titles in accordance with paragraph 5, the remaining Titles suspended by the respondent Party pursuant to paragraph 3 shall be reinstated at the same time as the Titles suspended by the complaining Party pursuant to paragraph 1.

## ARTICLE 701

### Time Periods

1. All time periods laid down in this Title shall be counted in weeks or months, as the case may be, from the day following the act to which they refer.
2. Any time period referred to in this Title may be modified by mutual agreement of the Parties.

## PART FOUR

### THEMATIC COOPERATION

#### TITLE I

#### HEALTH SECURITY

#### ARTICLE 702

##### Cooperation on health security

1. For the purpose of this Article, a "serious cross-border threat to health" means a life-threatening or otherwise serious hazard to health of biological, chemical, environmental or unknown origin which spreads or entails a significant risk of spreading across the borders of at least one Member State and the United Kingdom.
2. The Parties shall inform each other of a serious cross-border threat to health affecting the other Party and shall endeavour to do so in a timely manner.



3. Where there is a serious cross-border threat to health, following a written request from the United Kingdom, the Union may grant the United Kingdom ad hoc access to its Early Warning and Response System ("EWRS") in respect of the particular threat to enable the Parties and Member States' competent authorities to exchange relevant information, to assess public health risks, and to coordinate the measures that could be required to protect public health. The Union shall endeavour to respond to the United Kingdom's written request in a timely manner.

Moreover, the Union may invite the United Kingdom to participate in a committee established within the Union and composed of representatives of Member States for the purposes of supporting the exchange of information and of coordination in relation to the serious cross-border threat to health.

Both arrangements shall be on a temporary basis, and in any event for no longer than the duration that either of the Parties, having consulted the other Party, considers necessary for the relevant serious cross-border threat to health.

4. For the purposes of the information exchange referred to in paragraph 2 and any requests made pursuant to paragraph 3, each Party shall designate a focal point and notify the other Party thereof. The focal points shall also:

- (a) endeavour to facilitate understanding between the Parties as to whether or not a threat is a serious cross-border threat to health;
- (b) seek mutually agreed solutions to any technical issues arising from implementation of this Title.

5. The United Kingdom shall observe all applicable conditions for the use of the EWRS and the rules of procedure of the committee referred to in paragraph 3, for the period of access granted in respect of a particular serious cross-border threat to health. If, following clarificatory exchanges between the Parties:

- (a) the Union considers that the United Kingdom has not observed the above-mentioned conditions or rules of procedure, the Union may terminate the access of the United Kingdom to the EWRS or its participation in that committee, as the case may be, in respect of that threat;
- (b) the United Kingdom considers that it cannot accept the conditions or rules of procedure, the United Kingdom may withdraw its participation in the EWRS or its participation in that committee, as the case may be, in respect of that threat.

6. Where in their mutual interests the Parties shall cooperate in international forums on the prevention of, detection of, preparation for, and response to established and emerging threats to health security.

7. The European Centre for Disease Prevention and Control and the relevant body in the United Kingdom responsible for surveillance, epidemic intelligence and scientific advice on infectious diseases shall cooperate on technical and scientific matters of mutual interest to the Parties and, to that end, may conclude a memorandum of understanding.

## TITLE II

### CYBER SECURITY

#### ARTICLE 703

##### Dialogue on cyber issues

The Parties shall endeavour to establish a regular dialogue in order to exchange information about relevant policy developments, including in relation to international security, security of emerging technologies, internet governance, cybersecurity, cyber defence and cybercrime.

#### ARTICLE 704

##### Cooperation on cyber issues

1. Where in their mutual interest, the Parties shall cooperate in the field of cyber issues by sharing best practices and through cooperative practical actions aimed at promoting and protecting an open, free, stable, peaceful and secure cyberspace based on the application of existing international law and norms for responsible State behaviour and regional cyber confidence-building measures.

2. The Parties shall also endeavour to cooperate in relevant international bodies and forums, and endeavour to strengthen global cyber resilience and enhance the ability of third countries to fight cybercrime effectively.

## ARTICLE 705

### Cooperation with the Computer Emergency Response Team – European Union

Subject to prior approval by the Steering Board of the Computer Emergency Response Team – European Union (CERT-EU), CERT-EU and the national UK computer emergency response team shall cooperate on a voluntary, timely and reciprocal basis to exchange information on tools and methods, such as techniques, tactics, procedures and best practices, and on general threats and vulnerabilities.

## ARTICLE 706

### Participation in specific activities of the Cooperation Group established pursuant to Directive (EU) 2016/1148

1. With a view to promoting cooperation on cyber security while ensuring the autonomy of the Union decision-making process, the relevant national authorities of the United Kingdom may participate at the invitation, which the United Kingdom may also request, of the Chair of the Cooperation Group in consultation with the Commission, in the following activities of the Cooperation Group:

- (a) exchanging best practices in building capacity to ensure the security of network and information systems;
- (b) exchanging information with regard to exercises relating to the security of network and information systems;
- (c) exchanging information, experiences and best practices on risks and incidents;
- (d) exchanging information and best practices on awareness-raising, education programmes and training; and
- (e) exchanging information and best practices on research and development relating to the security of network and information systems.

2. Any exchange of information, experiences or best practices between the Cooperation Group and the relevant national authorities of the United Kingdom shall be voluntary and, where appropriate, reciprocal.

## ARTICLE 707

### Cooperation with the European Union Agency for Cybersecurity (ENISA)

1. With a view to promoting cooperation on cyber security while ensuring the autonomy of the Union decision-making process, the United Kingdom may participate at the invitation, which the United Kingdom may also request, of the Management Board of the European Union Agency for Cybersecurity (ENISA), in the following activities carried out by ENISA:

- (a) capacity building;
- (b) knowledge and information; and
- (c) awareness raising and education.

2. The conditions for the participation of the United Kingdom in ENISA's activities referred to in paragraph 1, including an appropriate financial contribution, shall be set out in working arrangements adopted by the Management Board of ENISA subject to prior approval by the Commission and agreed with the United Kingdom.

3. The exchange of information, experiences and best practices between ENISA and the United Kingdom shall be voluntary and, where appropriate, reciprocal.

## PART FIVE

### PARTICIPATION IN UNION PROGRAMMES, SOUND FINANCIAL MANAGEMENT AND FINANCIAL PROVISIONS

#### ARTICLE 708

##### Scope

1. This Part applies to the participation of the United Kingdom in Union programmes, activities and services thereunder, in which the Parties have agreed that the United Kingdom participates.
2. This Part shall not apply to the participation of the United Kingdom in cohesion programmes under the European territorial cooperation goal or similar programmes having the same objective, which takes place on the basis of the basic acts of one or more Union institutions applicable to those programmes.

The applicable conditions for participation in the programmes referred to in the first subparagraph shall be specified in the applicable basic act and the financing agreement concluded thereunder. The Parties shall agree provisions with similar effect to Chapter 2 concerning the participation of the United Kingdom in those programmes.



## ARTICLE 709

### Definitions

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

- (a) "basic act" means:
  - (i) an act of one or more Union institutions establishing a programme or activity, which provides a legal basis for an action and for the implementation of the corresponding expenditure entered in the Union budget or of the budgetary guarantee backed by the Union budget, including any amendment and any relevant acts of a Union institution which supplement or implement that act, except those adopting work programmes, or
  - (ii) an act of one or more Union institutions establishing an activity financed from the Union budget other than programmes;
  
- (b) "funding agreement" means agreements relating to Union programmes and activities under Protocol I on Programmes and activities in which the United Kingdom participates which implement Union funds, such as grant agreements, contribution agreements, financial framework partnership agreements, financing agreements and guarantee agreements;

- (c) "other rules pertaining to the implementation of the Union programme and activity" means rules laid down in the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>1</sup> ("Financial Regulation") that apply to the general budget of the Union, and in the work programme or in the calls or other Union award procedures;
- (d) "Union" means the Union or the European Atomic Energy Community, or both, as the context may require;
- (e) "Union award procedure" means a procedure for award of Union funding launched by the Union or by persons or entities entrusted with the implementation of Union funds;
- (f) "United Kingdom entity" means any type of entity, whether a natural person, legal person or another type of entity, which may participate in activities of a Union programme or activity in accordance with the basic act and who resides or which is established in the United Kingdom.

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<sup>1</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ EU L 193, 30.7.2018, p. 1).

## CHAPTER 1

### PARTICIPATION OF THE UNITED KINGDOM IN UNION PROGRAMMES AND ACTIVITIES

#### SECTION 1

#### GENERAL CONDITIONS FOR PARTICIPATION IN UNION PROGRAMMES AND ACTIVITIES

#### ARTICLE 710

##### Establishment of the participation

1. The United Kingdom shall participate in and contribute to the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, which are open to its participation, and which shall be listed in a Protocol on Programmes and activities in which the United Kingdom participates ("Protocol I").
2. Protocol I shall be agreed between the Parties. It shall be adopted and may be amended by the Specialised Committee on Participation in Union Programmes.

3. Protocol I shall:

- (a) identify the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, in which the United Kingdom shall participate;
- (b) lay down the duration of participation, which shall refer to the period of time during which the United Kingdom and United Kingdom entities may apply for Union funding or may be entrusted with implementation of Union funds;
- (c) lay down specific conditions for the participation of the United Kingdom and United Kingdom entities, including specific modalities for the implementation of the financial conditions as identified under Article 714, specific modalities of the correction mechanism as identified under Article 716, and conditions for participation in structures created for the purposes of implementing those Union programmes or activities. These conditions shall comply with this Agreement and the basic acts and acts of one or more Union institutions establishing such structures;
- (d) where applicable, lay down the amount of United Kingdom's contribution to a Union programme implemented through a financial instrument or a budgetary guarantee and, where appropriate, specific modalities referred to in Article 717.

## ARTICLE 711

### Compliance with programme rules

1. The United Kingdom shall participate in the Union programmes, activities or parts thereof listed in Protocol I under the terms and conditions established in this Agreement, in the basic acts and other rules pertaining to the implementation of Union programmes and activities.
2. The terms and conditions referred to in paragraph 1 shall include:
  - (a) the eligibility of the United Kingdom entities and any other eligibility conditions related to the United Kingdom, in particular to the origin, place of activity or nationality;
  - (b) the terms and conditions applicable to the submission, assessment and selection of applications and to the implementation of the actions by eligible United Kingdom entities.
3. The terms and conditions referred to in point (b) of paragraph 2 shall be equivalent to those applicable to eligible Member States entities, except in duly justified exceptional cases as provided for in the terms and conditions referred to in paragraph 1. Either party may bring to the attention of the Specialised Committee on Participation in Union Programmes the need for a discussion of duly justified exclusions.

## ARTICLE 712

### Conditions for participation

1. The United Kingdom's participation in a Union programme or activity, or parts thereof as referred to in Article 708 shall be conditional upon the United Kingdom:
  - (a) making every effort, within the framework of its domestic laws, to facilitate the entry and residence of persons involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers;
  - (b) ensuring, as far as it is under the control of the United Kingdom authorities, that the conditions for the persons referred to in point (a) to access services in the United Kingdom that are directly related to the implementation of the programmes or activities are the same as for United Kingdom nationals, including as regards any fees;
  - (c) as regards participation involving exchange of or access to classified or sensitive non-classified information, having in place the appropriate agreements in accordance with Article 777.

2. In relation to the United Kingdom's participation in a Union programme or activity, or parts thereof as referred to in Article 708 the Union and its Member States shall:
  - (a) make every effort, within the framework of Union or the Member States legislation, to facilitate the entry and residence of United Kingdom nationals involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers;
  - (b) ensure, as far as it is under the control of the Union and Member States' authorities, that the conditions for the United Kingdom nationals referred to in point (a) to access services in the Union that are directly related to the implementation of the programmes or activities are the same as for Union citizens, including as regards any fees.
3. Protocol I may lay down further specific conditions referring to this Article, which are necessary for the participation of the United Kingdom in a Union programme or activity, or parts thereof.
4. This Article is without prejudice to Article 711.
5. This Article and Article 718, are also without prejudice to any arrangements made between the United Kingdom and Ireland concerning the Common Travel Area.

## ARTICLE 713

### Participation of the United Kingdom in the governance of programmes or activities

1. Representatives or experts of the United Kingdom, or experts designated by the United Kingdom shall be allowed to take part, as observers unless it concerns points reserved only for Member States or in relation to a programme or activity in which the United Kingdom is not participating, in the committees, expert groups meetings or other similar meetings where representatives or experts of the Member States, or experts designated by Member States take part, and which assist the European Commission in the implementation and management of the programmes, the activities or parts thereof, in which the United Kingdom participates in accordance with Article 708 or are established by the European Commission in respect of the implementation of the Union law in relation to these programmes, activities or parts thereof. The representatives or experts of the United Kingdom, or experts designated by the United Kingdom shall not be present at the time of voting. The United Kingdom shall be informed of the result of the vote.
2. Where experts or evaluators are not appointed on the basis of nationality, nationality shall not be a reason to exclude United Kingdom nationals.



3. Subject to the conditions of paragraph 1, participation of the United Kingdom's representatives in the meetings referred to in paragraph 1, or in other meetings related to the implementation of programmes or activities, shall be governed by the same rules and procedures as those applicable to representatives of the Member States, in particular speaking rights, receipt of information and documentation unless it concerns points reserved only for Member States or in relation to a programme or activity in which the United Kingdom is not participating, and the reimbursement of travel and subsistence costs.

4. Protocol I may define further modalities for the participation of experts, as well as the participation of the United Kingdom in governing boards and structures created for the purposes of implementing Union programmes or activities defined in that Protocol.

## SECTION 2

### RULES FOR FINANCING THE PARTICIPATION IN UNION PROGRAMMES AND ACTIVITIES

#### ARTICLE 714

##### Financial conditions

1. Participation of the United Kingdom or United Kingdom entities in Union programmes, activities or parts thereof shall be subject to the United Kingdom contributing financially to the corresponding funding under the Union budget.

2. The financial contribution shall take the form of the sum of:
  - (a) a participation fee; and
  - (b) an operational contribution.
  
3. The financial contribution shall take the form of an annual payment made in one or more instalments.
  
4. Without prejudice to Article 733, the participation fee shall be 4 % of the annual operational contribution and shall not be subject to retrospective adjustments except in relation to suspension under point (b) of Article 718(7) and termination under point (c) of Article 720(6). As of 2028 the level of the participation fee may be adjusted by the Specialised Committee on Participation in Union Programmes.
  
5. The operational contribution shall cover operational and support expenditure and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for programmes or activities or exceptionally parts thereof increased, where appropriate, by external assigned revenue that does not result from financial contributions to Union programmes and activities from other donors, as defined in Protocol I.

6. The operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of the United Kingdom at market prices to the GDP of the Union at market prices. The GDPs at market prices to be applied shall be the latest available as of 1 January of the year in which the annual payment is made as provided by Statistical Office of the European Union (EUROSTAT), as soon as the arrangement referred to in Article 730 applies and according to the rules of this arrangement. Before this arrangement applies, the GDP of the United Kingdom shall be the one established on the basis of data provided by the Organisation for Economic Co-operation and Development (OECD).

7. The operational contribution shall be based on the application of the contribution key to the initial commitment appropriations increased as described in paragraph 5 entered in the Union budget definitively adopted for the applicable year for financing the Union programmes or activities or exceptionally parts thereof in which the United Kingdom participates.

8. The operational contribution of a programme, activity or part thereof for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year, their implementation through legal commitments and their decommitment.

The first adjustment shall be made in year N+1 when the initial contribution shall be adjusted upwards or downwards by the difference between the initial contribution and an adjusted contribution calculated by applying the contribution key of year N to the sum of:

- (a) the amount of budgetary commitments made on commitment appropriations authorised in year N under the European Union adopted budget and on commitment appropriations corresponding to decommitments made available again; and
- (b) any external assigned revenue appropriations that do not result from financial contributions to Union programmes and activities from other donors as defined in Protocol I and that were available at the end of year N.

Each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N have been paid or decommitted and at the latest three years after the end of the programme or after the end of the multiannual financial framework corresponding to year N, whichever is earlier, the Union shall calculate an adjustment of the contribution of year N by reducing the United Kingdom contribution by the amount obtained by applying the contribution key of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.

If external assigned revenue appropriations that do not result from financial contributions to Union programmes and activities from other donors as defined in Protocol I are cancelled, the contribution of the United Kingdom shall be reduced by the amount obtained by applying the contribution key of year N to the amount cancelled.

In year N+2 or in subsequent years, after having made the adjustments referred to in the second, third and fourth subparagraphs, the contribution of the United Kingdom for year N shall also be reduced by an amount obtained by multiplying the contribution of the United Kingdom for year N and the ratio of:

- (a) the legal commitments of year N, funded under any commitment appropriations available in year N, and resulting from competitive award procedures,
  - (i) from which the United Kingdom and the United Kingdom entities have been excluded;  
or
  - (ii) for which the Specialised Committee on Participation in Union Programmes has decided, in accordance with the procedure established in Article 715 that there has been a quasi-exclusion of United Kingdom or United Kingdom entities; or
  - (iii) for which the deadline for submission of applications has expired during the suspension referred to in Article 718 or after termination referred to in Article 720 has taken effect;  
or
  - (iv) for which the participation of the United Kingdom and United Kingdom entities has been limited in accordance with Article 722(3); and
- (b) the total amount of legal commitments funded under any commitment appropriations of year N.

This amount of legal commitments shall be calculated by taking all budgetary commitments made in year N and deducting the decommitments that have been made on these commitments in year N+1.

9. Upon request, the Union shall provide the United Kingdom with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the Union budgetary and discharge authorities concerning the Union programmes and activities in which the United Kingdom participates. That information shall be provided having due regard to the Union's and United Kingdom's confidentiality and data protection rules and is without prejudice to the information which the United Kingdom is entitled to receive under Chapter 2.

10. All contributions of the United Kingdom or payments from the Union, and the calculation of amounts due or to be received, shall be made in euros.

11. Subject to paragraph 5 and the second subparagraph of paragraph 8 of this Article, the detailed provisions for the implementation of this Article are set out in Annex 47. Annex 47 may be amended by the Specialised Committee on Participation in Union Programmes.

## ARTICLE 715

### Quasi exclusion from competitive grant award procedure

1. When the United Kingdom considers that certain conditions laid down in a competitive grant award procedure amount to a quasi-exclusion of United Kingdom entities, the United Kingdom shall notify the Specialised Committee on Participation in Union Programmes before the deadline for submission of applications in the procedure concerned and shall provide justification.
  
2. Within three months of the deadline for submission of applications in the award procedure concerned, the Specialised Committee on Participation in Union Programmes shall examine the notification referred to in the paragraph 1 provided that the participation rate of United Kingdom entities in the award procedure concerned is at least 25 % lower compared to:
  - (a) the average participation rate of United Kingdom entities in similar competitive award procedures not containing such a condition and launched within the three years preceding the notification; or,
  - (b) in the absence of similar competitive award procedures, the average participation rate of United Kingdom entities in all competitive award procedures launched under the programme, or the preceding programme, as relevant, within the 3 years preceding the notification.

3. The Specialised Committee on Participation in Union Programmes shall by the end of the period referred to in paragraph 2, decide whether there has been a quasi-exclusion of the United Kingdom entities from the award procedure concerned in light of the justification provided by the United Kingdom pursuant to paragraph 1 and the effective participation rate in the award procedure concerned.

4. For the purposes of paragraphs 2 and 3, the participation rate shall be the ratio of the number of applications submitted by United Kingdom entities to the total number of applications submitted within the same award procedure.

## ARTICLE 716

### Programmes to which an automatic correction mechanism applies

1. An automatic correction mechanism shall apply in relation to those Union programmes, activities or parts thereof for which the application of an automatic correction mechanism is provided in Protocol I. The application of that automatic correction mechanism may be limited to parts of the programme or activity specified in Protocol I, which are implemented through grants for which competitive calls are organised. Detailed rules on the identification of the parts of the programme or activity to which the automatic correction mechanism does or does not apply may be established in Protocol I.



2. The amount of the automatic correction for a programme or activity or parts thereof shall be the difference between the initial amounts of the legal commitments actually entered into with the United Kingdom or United Kingdom entities financed from commitment appropriations of the year in question and the corresponding operational contribution paid by the United Kingdom as adjusted pursuant to Article 714(8), excluding support expenditure, covering the same period if that amount is positive.
  
3. Any amount referred to in paragraph 2 of this Article, which for each of two consecutive years exceeds 8 % of the corresponding contribution of the United Kingdom to the programme as adjusted pursuant to Article 714(8) shall be due by the United Kingdom as an additional contribution under the automatic correction mechanism for each of those two years.
  
4. Detailed rules on the establishment of the relevant amounts of the legal commitments referred to in paragraph 2 of this Article, including in the case of consortia, and on the calculation of the automatic correction may be laid down in Protocol I.

## ARTICLE 717

### Financing in relation to programmes implemented through financial instruments or budgetary guarantees

1. Where the United Kingdom participates in a Union programme, activity, or parts thereof that is implemented through a financial instrument or budgetary guarantee, the contribution of the United Kingdom to programmes implemented through financial instruments or budgetary guarantees under the Union budget implemented under Title X of the Financial Regulation applicable to the general budget of the Union shall be made in the form of cash. The amount contributed in cash shall increase the Union budgetary guarantee or the financial envelope of the financial instrument.

2. Where the United Kingdom participates in a programme referred to in paragraph 1 of this Article that is implemented by the European Investment Bank Group, if the European Investment Bank Group needs to cover losses that are not covered by the guarantee provided by the Union budget, the United Kingdom shall pay to the European Investment Bank Group a percentage of those losses equal to the ratio of the Gross Domestic Product at market prices of the United Kingdom to the sum of the Gross Domestic Product at market prices of the Member States, the United Kingdom and any other third country participating in that programme. The Gross Domestic Product at market prices to be applied shall be the latest available as of 1 January of the year in which the payment is due as provided by EUROSTAT, as soon as the arrangement referred to in Article 730 applies and according to the rules of this arrangement. Before this arrangement applies, the GDP of the United Kingdom shall be the one established on the basis of data provided by the OECD.

3. Where appropriate, modalities for the implementation of this Article, in particular ensuring that the United Kingdom receives its share of unused contributions to budgetary guarantees and financial instruments, shall be specified further in Protocol I.

## SECTION 3

### SUSPENSION AND TERMINATION OF THE PARTICIPATION IN UNION PROGRAMMES

#### ARTICLE 718

Suspension of the participation of the United Kingdom in a Union programme by the Union

1. The Union may unilaterally suspend the application of Protocol I, in relation to one or more Union programmes, activities, or exceptionally parts thereof in accordance with this Article, if the United Kingdom does not pay its financial contribution in accordance with Section 2 of this Chapter or if the United Kingdom introduces significant changes to one of the following conditions that existed when the United Kingdom participation in a programme, an activity or exceptionally part thereof was agreed and included in Protocol I, and if such changes have a significant impact on their implementation:

- (a) the conditions for entry and residence in the United Kingdom of the persons that are involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers are changed. This shall apply, in particular, if the United Kingdom introduces a change in its domestic laws for the conditions for entry and residence in the United Kingdom for these persons, which discriminates between Member States;

- (b) there is a change in financial charges, including fees, that apply to persons referred in point (a) in order to perform the activities that they have to perform in order to implement the programme;
- (c) the conditions referred to in Article 712(3) are changed.

2. The Union shall notify the Specialised Committee on Participation in Union Programmes of its intention to suspend the participation of the United Kingdom in the programme or activity concerned. The Union shall identify the scope of the suspension and provide due justification. Unless the Union withdraws its notification, the suspension shall take effect 45 days following the date of notification by the Union. The date on which the suspension takes effect shall constitute the suspension reference date for the purposes of this Article.

Prior to notification and suspension, and during the suspension period, the Specialised Committee on Participation in Union Programmes may discuss appropriate measures for avoiding or lifting the suspension. In case the Specialised Committee on Participation in Union Programmes finds an agreement for avoiding the suspension within the period referred to in the first subparagraph, the suspension shall not take effect.

In any case, the Specialised Committee on Participation in Union Programmes shall meet during the period of 45 days to discuss the matter.

3. As of the suspension reference date the United Kingdom shall not be treated as a country participating in the Union programme, activity, or part thereof concerned by the suspension and in particular, the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and Protocol I, with regard to Union award procedures which have not been completed yet on that date. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

4. The suspension shall not affect legal commitments entered into before the suspension reference date. This Agreement shall continue to apply to such legal commitments.

5. The United Kingdom shall notify the Union as soon as it considers that compliance with the conditions for participation has been restored, and shall provide the Union with any relevant evidence to that effect.

Within 30 days from that notification the Union shall assess the matter and may, for that purpose, request the United Kingdom to present additional evidence. The time needed to provide such additional evidence shall not be taken into account in the overall period for assessment.

Where the Union has found that compliance with the conditions for participation is restored, it shall notify without undue delay the Specialised Committee on Participation in Union Programmes that the suspension is lifted. The lifting shall take effect on the day following the date of notification.

Where the Union has found that compliance with the conditions for participation is not restored, the suspension shall remain in force.

6. The United Kingdom shall be treated again as a country participating in the Union programme or activity concerned, and in particular United Kingdom and United Kingdom entities shall be again eligible under the conditions laid down in Article 711 and Protocol I, with regard to Union award procedures under that Union programme or activity which were launched after the date on which the lifting of the suspension takes effect, or which were launched before that date, and for which the deadline for the submission of applications has not expired.

7. In case of the United Kingdom participation in a programme, activity, or part thereof being suspended, the financial contribution of the United Kingdom that is due during the period of suspension shall be established as follows:

- (a) the Union shall recalculate the operational contribution using the procedure described in point (a)(iii) of the fifth subparagraph of Article 714(8);
- (b) the participation fee shall be adjusted in line with the adjustment of the operational contribution.

## ARTICLE 719

Termination of the participation of the United Kingdom in a Union programme by the Union

1. If, by one year after the reference date referred to in Article 718(2) the Union has not lifted the suspension under Article 718, the Union shall either:
  - (a) reassess the conditions under which it may offer to allow the United Kingdom to continue participating in the Union programmes, activities or parts thereof concerned and shall propose those conditions to the Specialised Committee on Participation in Union Programmes within 45 days from expiry of the one year suspension period with a view to modifying Protocol I. In the absence of an agreement on those measures by the Specialised Committee within a further period of 45 days, termination shall take effect as referred to in point (b) of this paragraph; or
  - (b) terminate unilaterally the application of Protocol I, in relation to the Union programmes, activities or parts thereof concerned, in accordance with this Article, taking into account the impact of the change referred to in Article 718 on the implementation of the programme or activity or exceptionally parts thereof, or the amount of the unpaid contribution.



2. The Union shall notify the Specialised Committee on Participation in Union Programmes of its intention to terminate the participation of the United Kingdom in one or more Union programmes or activities pursuant to point (b) of paragraph 1. The Union shall identify the scope of the termination and provide due justification. Unless the Union withdraws its notification, the termination shall take effect 45 days following the date of notification by the Union. The date on which the termination takes effect shall constitute the termination reference date for the purposes of this Article.

3. As of the termination reference date the United Kingdom shall not be treated as a country participating in the Union programme or activity concerned by the termination, and in particular the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and in Protocol I, with regard to Union award procedures which have not been completed yet as of that date. An award procedure shall be considered to have been completed if legal commitments have been entered into as a result of that procedure.

4. The termination shall not affect legal commitments entered into before the suspension reference date referred to in Article 718(2). This Agreement shall continue to apply to such legal commitments.

5. Where the application of Protocol I, or a part thereof, is terminated in respect of the programmes or activities or exceptionally parts thereof concerned:

- (a) the operational contribution covering support expenditure related to legal commitments already entered into shall continue to be due until the completion of those legal commitments or the end of the multiannual financial framework under which the legal commitment has been financed;
- (b) no contribution except the one referred to in point (a) shall be made in the following years.

#### ARTICLE 720

Termination of the participation in a programme or activity in the case of substantial modification to Union programmes

1. The United Kingdom may unilaterally terminate its participation in a Union programme or activity or part thereof referred to in Protocol I where:

- (a) the basic act of that Union programme or activity is amended to an extent that the conditions for participation of the United Kingdom or of United Kingdom entities in that Union programme or activity have been substantially modified, in particular, as a result of a change of the objectives of the programme or activity and of the corresponding actions; or

- (b) the total amount of commitment appropriations as referred to in Article 714 is increased by more than 15 % compared with the initial financial envelope of that programme or activity or part thereof in which the United Kingdom participates and either the corresponding ceiling of the multiannual financial framework has been increased or the amount of external revenue referred to in Article 714(5) for the whole period of participation has been increased; or
- (c) the United Kingdom or United Kingdom entities are excluded from participation in part of a programme or activity on duly justified grounds, and that exclusion concerns commitment appropriations exceeding 10 % of the commitment appropriations in the Union budget definitively adopted for a year N for that programme or activity.

2. To this effect, the United Kingdom shall notify its intention to terminate Protocol I in relation to the Union programme or activity concerned, to the Specialised Committee on Participation in Union Programmes at the latest 60 days after the publication of the amendment or of the adopted annual budget or an amendment to it in the *Official Journal of the European Union*. The United Kingdom shall explain the reasons for which the United Kingdom considers the amendment to substantially alter the conditions of participation. The Specialised Committee on Participation in Union Programmes shall meet within 45 days of receiving the notification to discuss the matter.

3. Unless the United Kingdom withdraws its notification, the termination shall take effect 45 days following the date of notification by the United Kingdom. The date on which the termination takes effect shall constitute the reference date for the purposes of this Article.

4. As of the reference date the United Kingdom shall not be treated as a country participating in the Union programme or activity concerned by the termination, and in particular the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and in Protocol I, with regard to Union award procedures which have not been completed yet as of that date. An award procedure shall be considered to have been completed if legal commitments have been entered into as a result of that procedure.

5. The termination shall not affect legal commitments entered into before the reference date. This Agreement shall continue to apply to such legal commitments.

6. In case of termination under this Article in respect of the programmes or activities concerned:

- (a) the operational contribution covering support expenditure related to legal commitments already entered into shall continue to be due until the completion of those legal commitments or the end of the multiannual financial framework under which the legal commitment has been financed;
- (b) the Union shall recalculate the operational contribution of the year where termination occurs using the procedure described in point (a)(iii) of the fifth subparagraph of Article 714(8). No contribution except the one referred to in point (a) of this Article shall be made in the following years;
- (c) the participation fee shall be adjusted in line with the adjustment of the operational contribution.

## SECTION 4

### REVIEW OF PERFORMANCE AND FINANCIAL INCREASES

#### ARTICLE 721

##### Performance review

1. A performance review procedure shall apply in accordance with the conditions laid down in this Article in relation to parts of the Union programme or activity to which the correction mechanism referred to in Article 716 applies.
2. The United Kingdom may request the Specialised Committee on Participation in Union Programmes to start the performance review procedure where the amount calculated in accordance with the method laid down in Article 716(2) is negative, and where that amount is higher than 12 % of the corresponding contributions of the United Kingdom to the programme or activity as adjusted pursuant to Article 714(8).
3. The Specialised Committee on Participation in Union Programmes, within a period of three months from the date of the request referred to in paragraph 2, shall analyse the relevant performance-related data and adopt a report proposing appropriate measures to address performance related issues.

The measures referred to in the first subparagraph shall be applied for a period of twelve months after the adoption of the report. Following the application of the measures, performance data over the period in question shall be used to calculate the difference between the initial amounts due under the legal commitments actually entered into with the United Kingdom or United Kingdom entities during that calendar year and the corresponding operational contribution paid by the United Kingdom for the same year.

If the difference referred to in the second subparagraph is negative and exceeds 16 % of the corresponding operational contribution, the United Kingdom may:

- (a) notify its intention to terminate its participation in the Union programme or part of a programme concerned by giving notice 45 days before the intended day of termination, and may terminate its participation in accordance with Article 720(3) to (6); or
- (b) request the Specialised Committee on Participation in Union Programmes to adopt further measures to address underperformance, including by making adaptations to the participation of the United Kingdom in the Union programme concerned and adjusting future financial contributions of the United Kingdom in respect of that programme.

## ARTICLE 722

### Financial increases review

1. The United Kingdom may notify the Specialised Committee on Participation in Union Programmes that it objects to the amount of its contribution to a Union programme or activity if the total amount of commitment appropriations as referred to in Article 714 is increased by more than 5 % compared with the initial financial envelope for that Union programme or activity and either the corresponding ceiling has been increased or the amount of external revenue referred to in Article 714(5) for the whole period of participation has been increased.
2. The notification referred to in paragraph 1 of this Article shall be made within 60 days as of the publication date of the adopted annual budget or an amendment to it in the *Official Journal of the European Union*. The notification shall be without prejudice to the obligation of the United Kingdom to pay its contribution and to the application of the adjustment mechanism referred to in Article 714(8).

3. The Specialised Committee on Participation in Union Programmes shall prepare a report, propose and decide on the adoption of appropriate measures within three months from the date of the notification referred to in paragraph 2 of this Article. Those measures may include limiting the participation of the United Kingdom and United Kingdom entities to certain types of actions or award procedures or, where appropriate, a modification of Protocol I. The limitation of the United Kingdom's participation will be treated as an exclusion for the purposes of the adjustment mechanism referred to in Article 714(8).

4. Where the conditions referred to in point (b) of Article 720(1) are fulfilled, the United Kingdom may terminate its participation in a Union programme or activity referred to in Protocol I in accordance with Article 720(2) to (6).

## CHAPTER 2

### SOUND FINANCIAL MANAGEMENT

#### ARTICLE 723

##### Scope

This Chapter shall apply in relation to the Union programmes, activities and services under Union programmes referred to in Protocol I and Protocol II on access of the United Kingdom to services established under certain Union programmes and activities in which the United Kingdom does not participate (Protocol II).



## SECTION 1

### PROTECTION OF FINANCIAL INTERESTS AND RECOVERY

#### ARTICLE 724

##### Conduct of activity for the purposes of sound financial management

For the purposes of the application of this Chapter, the authorities of the United Kingdom and of the Union referred to in this Chapter shall cooperate closely in accordance with their respective laws and regulations.

When exercising their duties in the territory of the United Kingdom, the agents and investigative bodies of the Union shall act in a manner consistent with United Kingdom law.

## ARTICLE 725

### Reviews and audits

1. The Union shall have the right to conduct as provided in relevant funding agreements or contracts and in accordance with the applicable acts of one or more Union institutions, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or legal entity established in the United Kingdom and receiving Union funding, as well as any third party involved in the implementation of Union funding residing or established in the United Kingdom. Such reviews and audits may be carried out by the agents of the institutions and bodies of the Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission in accordance with Union law.
2. The agents of the institutions and bodies of the Union, in particular the agents of the European Commission and the European Court of Auditors, as well as other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (in electronic versions, paper versions, or both) and to all the information required in order to carry out such reviews and audits, as referred to in paragraph 1. Such access shall include the right to obtain physical or electronic copies of, and extracts from, any document or the contents of any data medium held by audited natural or legal persons, or by the audited third party.
3. The United Kingdom shall not prevent or raise any obstacle to the right of the agents and other persons referred to in paragraph 2 to enter the United Kingdom and to access the premises of the audited persons, in the exercise of their duties referred to in this Article.

4. Notwithstanding the suspension or termination of the United Kingdom's participation in a programme or activity, the suspension of part or all of the provisions of this Part and/or Protocol I or the termination of this Agreement, the reviews and audits may be carried out also after the date on which the relevant suspension or termination takes effect, on the terms laid down in the applicable acts of one or more Union institutions and as provided in the relevant funding agreements or contracts in relation to any legal commitment implementing the Union budget entered into by the Union before the date on which the relevant suspension or termination takes effect.

#### ARTICLE 726

Fight against irregularities, fraud and other criminal offences affecting the financial interests of the  
Union

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, in the territory of the United Kingdom. The European Commission and OLAF shall act in accordance with the Union acts governing those checks, inspections and investigations.

2. The competent United Kingdom authorities shall inform the European Commission or OLAF within a reasonable period of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.

3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in the United Kingdom and that receives Union funding under a funding agreement or a contract, as well as on the premises of any third party involved in the implementation of such Union funding residing or established in the United Kingdom. Such checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent United Kingdom authority designated by the United Kingdom. The designated authority shall be notified within a reasonable period before the checks and inspections of the object, purpose and legal basis of those checks and inspections, to enable it to provide assistance. To that end, the officials of the competent United Kingdom authorities may participate in the on-the-spot checks and inspections.

4. The agents of the European Commission and OLAF shall have access to all the information and documentation (in electronic versions, paper versions, or both) relating to the operations referred to in paragraph 3, which are required for the proper conduct of the on-the-spot checks and inspections. In particular, the agents of the European Commission and OLAF may copy relevant documents.

5. The European Commission or OLAF and the competent United Kingdom authorities shall decide on a case-by-case basis whether to conduct on-the-spot checks and inspections jointly, including where both parties are competent to conduct investigations.

6. Where the person, entity or another third party who is subject to an on-the-spot check or inspection resists an on-the-spot check or inspection, the United Kingdom authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to enable them to fulfil their duties in carrying out the on-the-spot check or inspection. Such assistance shall include taking the appropriate precautionary measures under national law, including measures to safeguard evidence.
7. The European Commission or OLAF shall inform the competent United Kingdom authorities of the result of such checks and inspections. In particular the European Commission or OLAF shall report as soon as possible to the competent United Kingdom authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.
8. Without prejudice to application of United Kingdom law, the European Commission may impose administrative measures and penalties on legal or natural persons participating in the implementation of a programme or activity in accordance with Union legislation.
9. For the purposes of the proper implementation of this Article, the European Commission or OLAF and the United Kingdom competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other, unless prohibited under Union legislation or under United Kingdom law.
10. In order to facilitate effective cooperation and the exchange of information with OLAF the United Kingdom shall designate a contact point.

11. The exchange of information between the European Commission or OLAF and the United Kingdom competent authorities shall comply with applicable confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

12. Without prejudice to the applicability of Article 634, where any United Kingdom national, or natural persons residing in the United Kingdom, or legal entities established in the United Kingdom receive Union funding under Union programmes and activities listed in Protocol I, directly or indirectly, including in connection with any third party involved in the implementation of such Union funding, the United Kingdom authorities shall cooperate with the Union authorities or authorities of the Member States of the Union responsible for investigating, prosecuting and bringing to judgement the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union in relation to such funding, in accordance with the applicable legislation and international instruments, to allow them to fulfil their duties.

## ARTICLE 727

### Amendments to Articles 708, 723, 725 and 726

The Specialised Committee on Participation in Union Programmes may amend Articles 725 and 726, in particular to take account of changes of acts of one or more Union institutions.

The Specialised Committee on Participation in Union Programmes may amend Article 708 and Article 723 to extend the application of this Chapter to other Union programmes, activities and services.

## ARTICLE 728

### Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from Union programmes, activities, actions or projects shall be enforceable in the United Kingdom. The order for its enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the United Kingdom. The United Kingdom shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 729, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in the United Kingdom. The enforcement of those decisions shall take place in accordance with United Kingdom law.

2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities or parts thereof under Protocol I shall be enforceable in the United Kingdom in the same manner as European Commission decisions, as referred to in paragraph 1 of this Article.

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decisions of the Commission referred to in paragraph 1 and to suspend the enforcement of such decisions. However, the Courts of the United Kingdom shall have jurisdiction over complaints alleging that enforcement is being carried out in an irregular manner.

## SECTION 2

### OTHER RULES FOR THE IMPLEMENTATION OF UNION PROGRAMMES

#### ARTICLE 729

##### Communication and exchange of information

The Union institutions and bodies involved in the implementation of Union programmes or activities, or in control of such programmes or activities, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in the United Kingdom or legal entity established in the United Kingdom receiving Union funding, as well as with any third party involved in the implementation of Union funding that resides or is established in the United Kingdom. Such persons, entities and third parties may submit directly to the Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the Union legislation applicable to the Union programme or activity or on the basis of the contracts or funding agreements concluded to implement that programme or activity.



## ARTICLE 730

### Statistical cooperation

EUROSTAT and the United Kingdom Statistics Authority may establish an arrangement that enables cooperation on relevant statistical matters and includes that EUROSTAT, with the agreement of the United Kingdom Statistics Authority, provides statistical data on the United Kingdom for the purposes of this Part, including, in particular, data on the GDP of the United Kingdom.

## CHAPTER 3

### ACCESS OF THE UNITED KINGDOM TO SERVICES UNDER UNION PROGRAMMES

## ARTICLE 731

### Rules on service access

1. Where the United Kingdom does not participate in a Union programme or activity in accordance with Chapter 1, it may nevertheless have access to services provided under Union programmes and activities under the terms and conditions established in this Agreement, the basic acts and any other rules pertaining to the implementation of Union programmes and activities.

2. Protocol II shall, where appropriate:
  - (a) identify the services under Union programmes and activities, to which the United Kingdom and United Kingdom entities shall have access;
  - (b) lay down specific conditions for the access by the United Kingdom and United Kingdom entities. Those conditions shall comply with the conditions laid down in this Agreement and in the basic acts;
  - (c) where applicable, specify the United Kingdom's financial or in-kind contribution with respect to a service provided under such Union programmes and activities.
3. Protocol II shall be adopted and may be amended by the Specialised Committee on Participation in Union Programmes.
4. The United Kingdom and public and private spacecraft owners and operators operating in or from the United Kingdom shall have access to the services provided under Article 5(1) of Decision No 541/2014/EU of the European Parliament and of the Council<sup>1</sup> in accordance with Article 5(2) of that Decision until provisions on similar access are included in Protocol II or until 31 December 2021.

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<sup>1</sup> Decision No 541/2014/EU of the European Parliament and of the Council of 16 April 2014 establishing a Framework for Space Surveillance and Tracking Support (OJ EU L 158, 27.5.2014, p. 227).

## CHAPTER 4

### REVIEWS

#### ARTICLE 732

##### Review clause

Four years after Protocols I and II become applicable, the Specialised Committee on Participation in Union Programmes shall review the implementation thereof on the basis of the data concerning the participation of United Kingdom entities in indirect and direct actions under the programme, parts of the programme, activities and services covered under Protocols I and II.

Following a request by either Party, the Specialised Committee on Participation in Union Programmes shall discuss changes or proposed changes affecting the terms of the United Kingdom participation in any of the programmes or parts of programmes, activities and services listed in Protocols I and II, and, if necessary, may propose appropriate measures within the scope of this Agreement.

## CHAPTER 5

### PARTICIPATION FEE IN THE YEARS 2021 TO 2026

#### ARTICLE 733

##### Participation fee in the years 2021 to 2026

The participation fee referred to in Article 714(4) shall have the following value in the years 2021 to 2026:

- in 2021: 0,5 %;
- in 2022: 1 %;
- in 2023: 1,5 %;
- in 2024: 2 %;
- in 2025: 2,5 %;
- in 2026: 3 %.

## PART SIX

### DISPUTE SETTLEMENT AND HORIZONTAL PROVISIONS

#### TITLE I

#### DISPUTE SETTLEMENT

#### CHAPTER 1

#### GENERAL PROVISIONS

#### ARTICLE 734

##### Objective

The objective of this Title is to establish an effective and efficient mechanism for avoiding and settling disputes between the Parties concerning the interpretation and application of this Agreement and supplementing agreements with a view to reaching, where possible, a mutually agreed solution.

## ARTICLE 735

### Scope

1. This Title applies, subject to paragraphs 2, 3, 4 and 5, to disputes between the Parties concerning the interpretation and application of the provisions of this Agreement or of any supplementing agreement ("covered provisions").
2. The covered provisions shall include all provisions of this Agreement and of any supplementing agreement with the exception of:
  - (a) Article 32(1) to (6) and Article 36;
  - (b) Annex 12;
  - (c) Title VII of Heading one of Part Two;
  - (d) Title X of Heading One of Part Two;
  - (e) Article 355(1), (2) and (4), Article 356(1) and (3), Chapter 2 of Title XI of Heading One of Part Two, Articles 371 and 372, Chapter 5 of Title XI of Heading One of Part Two, and Article 411(4) to (9);

- (f) Part Three, including when applying in relation to situations governed by other provisions of this Agreement;
- (g) Part Four;
- (h) Title II of Part Six;
- (i) Article 782; and
- (j) the Agreement on security procedures for exchanging and protecting classified information.

3. The Partnership Council may be seized by a Party with a view to resolving a dispute with respect to obligations arising from the provisions referred to in paragraph 2.

4. Article 736 applies to the provisions referred to in paragraph 2 of this Article.

5. Notwithstanding paragraphs 1 and 2, this Title shall not apply with respect to disputes concerning the interpretation and application of the provisions of the Protocol on Social Security Coordination or its annexes in individual cases.

## ARTICLE 736

### Exclusivity

The Parties undertake not to submit a dispute between them regarding the interpretation or application of provisions of this Agreement or of any supplementing agreement to a mechanism of settlement other than those provided for in this Agreement.

## ARTICLE 737

### Choice of forum in case of a substantially equivalent obligation under another international agreement

1. If a dispute arises regarding a measure allegedly in breach of an obligation under this Agreement or any supplementing agreement and of a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.
2. Once a Party has selected the forum and initiated dispute settlement procedures either under this Title or under another international agreement, that Party shall not initiate such procedures under the other international agreement with respect to the particular measure referred to in paragraph 1, unless the forum selected first fails to make findings for procedural or jurisdictional reasons.



3. For the purposes of this Article:

- (a) dispute settlement procedures under this Title are deemed to be initiated by a Party's request for the establishment of an arbitration tribunal under Article 739;
- (b) dispute settlement procedures under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedure Governing the Settlement of Disputes of the WTO; and
- (c) dispute settlement procedures under any other agreement are deemed to be initiated if they are initiated in accordance with the relevant provisions of that agreement.

4. Without prejudice to paragraph 2, nothing in this Agreement or any supplementing agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the Parties are party. The WTO Agreement or any other international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations under this Title.

## CHAPTER 2

### PROCEDURE

#### ARTICLE 738

##### Consultations

1. If a Party (the "complaining Party") considers that the other Party (the "respondent Party") has breached an obligation under this Agreement or under any supplementing agreement, the Parties shall endeavour to resolve the matter by entering into consultations in good faith, with the aim of reaching a mutually agreed solution.
2. The complaining Party may seek consultations by means of a written request delivered to the respondent Party. The complaining Party shall specify in its written request the reasons for the request, including the identification of the measures at issue and the legal basis for the request, and the covered provisions it considers applicable.
3. The respondent Party shall reply to the request promptly, and in any case no later than 10 days after the date of its delivery. Consultations shall be held within 30 days of the date of delivery of the request in person or by any other means of communication agreed by the Parties. If held in person, consultations shall take place in the territory of the respondent Party, unless the Parties agree otherwise.

4. The consultations shall be deemed concluded within 30 days of the date of delivery of the request, unless the Parties agree to continue consultations.
5. Consultations on matters of urgency, including those regarding perishable goods or seasonal goods or services, shall be held within 20 days of the date of delivery of the request. The consultations shall be deemed concluded within those 20 days unless the Parties agree to continue consultations.
6. Each Party shall provide sufficient factual information to allow a complete examination of the measure at issue, including an examination of how that measure could affect the application of this Agreement or any supplementing agreement. Each Party shall endeavour to ensure the participation of personnel of their competent authorities who have expertise in the matter subject to the consultations.
7. For any dispute concerning an area other than Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One or Heading Six of Part Two, at the request of the complaining Party, the consultations referred to in paragraph 3 of this Article shall be held in the framework of a Specialised Committee or of the Partnership Council. The Specialised Committee may at any time decide to refer the matter to the Partnership Council. The Partnership Council may also seize itself of the matter. The Specialised Committee, or, as the case may be, the Partnership Council, may resolve the dispute by a decision. The time periods referred to in paragraph 3 of this Article shall apply. The venue of meetings shall be governed by the rules of procedure of the Specialised Committee or, as the case may be, the Partnership Council.

8. Consultations, and in particular all information designated as confidential and positions taken by the Parties during consultations, shall be confidential, and shall be without prejudice to the rights of either Party in any further proceedings.

## ARTICLE 739

### Arbitration procedure

1. The complaining Party may request the establishment of an arbitration tribunal if:
  - (a) the respondent Party does not respond to the request for consultations within 10 days of the date of its delivery;
  - (b) consultations are not held within the time periods referred to in Article 738(3), (4) or (5);
  - (c) the Parties agree not to have consultations; or
  - (d) consultations have been concluded without a mutually agreed solution having been reached.
  
2. The request for the establishment of the arbitration tribunal shall be made by means of a written request delivered to the respondent Party. In its request, the complaining Party shall explicitly identify the measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly.

## ARTICLE 740

### Establishment of an arbitration tribunal

1. An arbitration tribunal shall be composed of three arbitrators.
2. No later than 10 days after the date of delivery of the request for the establishment of an arbitration tribunal, the Parties shall consult with a view to agreeing on the composition of the arbitration tribunal.
3. If the Parties do not agree on the composition of the arbitration tribunal within the time period provided for in paragraph 2 of this Article, each Party shall appoint an arbitrator from the sub-list for that Party established pursuant to Article 752 no later than five days after the expiry of the time period provided for in paragraph 2 of this Article. If a Party fails to appoint an arbitrator from its sub-list within that time period, the co-chair of the Partnership Council from the complaining Party shall select, no later than five days after the expiry of that time period, an arbitrator by lot from the sub-list of the Party that has failed to appoint an arbitrator. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the arbitrator.
4. If the Parties do not agree on the chairperson of the arbitration tribunal within the time period provided for in paragraph 2 of this Article, the co-chair of the Partnership Council from the complaining Party shall select, no later than five days after the expiry of that time period, the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 752. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the chairperson of the arbitration tribunal.

5. Should any of the lists provided for in Article 752 not be established or not contain sufficient names at the time a selection is made pursuant to paragraph 3 or 4 of this Article, the arbitrators shall be selected by lot from the individuals who have been formally proposed by one Party or both Parties in accordance with Annex 48.

6. The date of establishment of the arbitration tribunal shall be the date on which the last of the three arbitrators has notified to the Parties the acceptance of his or her appointment in accordance with Annex 48.

## ARTICLE 741

### Requirements for arbitrators

1. All arbitrators shall:
  - (a) have demonstrated expertise in law and international trade, including on specific matters covered by Titles I to VII, Chapter 4 of Title VIII, Titles IX to XII of Heading One of Part Two or Heading Six of Part Two, or in law and any other matter covered by this Agreement or by any supplementing agreement and, in the case of a chairperson, also have experience in dispute settlement procedures;
  - (b) not be affiliated with or take instructions from either Party;

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

(d) comply with Annex 49.

2. All arbitrators shall be persons whose independence is beyond doubt, who possess the qualifications required for appointment to high judicial office in their respective countries or who are jurisconsults of recognised competence.

3. In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in point (a) of paragraph 1.

## ARTICLE 742

### Functions of the arbitration tribunal

The arbitration tribunal:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of, and conformity of the measures at issue with, the covered provisions;

- (b) shall set out, in its decisions and rulings, the findings of facts and law and the rationale behind any findings that it makes; and
- (c) should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

## ARTICLE 743

### Terms of reference

1. Unless the Parties agree otherwise no later than five days after the date of the establishment of the arbitration tribunal, the terms of reference of the arbitration tribunal shall be:

"to examine, in the light of the relevant covered provisions of this Agreement or of a supplementing agreement, the matter referred to in the request for the establishment of the arbitration tribunal, to decide on the conformity of the measure at issue with the provisions referred to in Article 735 and to issue a ruling in accordance with Article 745".

2. If the Parties agree on terms of reference other than those referred to in paragraph 1, they shall notify the agreed terms of reference to the arbitration tribunal within the time period referred to in paragraph 1.



## ARTICLE 744

### Urgent proceedings

1. If a Party so requests, the arbitration tribunal shall decide, no later than 10 days after the date of its establishment, whether the case concerns matters of urgency.
2. In cases of urgency, the applicable time periods set out in Article 745 shall be half the time prescribed therein.

## ARTICLE 745

### Ruling of the arbitration tribunal

1. The arbitration tribunal shall deliver an interim report to the Parties within 100 days after the date of establishment of the arbitration tribunal. If the arbitration tribunal considers that this deadline cannot be met, the chairperson of the arbitration tribunal shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its interim report. The arbitration tribunal shall not deliver its interim report later than 130 days after the date of establishment of the arbitration tribunal under any circumstances.

2. Each Party may deliver to the arbitration tribunal a written request to review precise aspects of the interim report within 14 days of its delivery. A Party may comment on the other Party's request within six days of the delivery of the request.
3. If no written request to review precise aspects of the interim report is delivered within the time period referred to in paragraph 2, the interim report shall become the ruling of the arbitration tribunal.
4. The arbitration tribunal shall deliver its ruling to the Parties within 130 days of the date of establishment of the arbitration tribunal. When the arbitration tribunal considers that that deadline cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the arbitration tribunal plans to deliver its ruling. The arbitration tribunal shall not deliver its ruling later than 160 days after the date of establishment of the arbitration tribunal under any circumstances.
5. The ruling shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.
6. For greater certainty, a "ruling" or "rulings" as referred to in Articles 742, 743 and 753 and Article 754(1), (3), (4) and (6) shall be understood to refer also to the interim report of the arbitration tribunal.

## CHAPTER 3

### COMPLIANCE

#### ARTICLE 746

##### Compliance measures

1. If, in its ruling referred to in Article 745(4), the arbitration tribunal finds that the respondent Party has breached an obligation under this Agreement or under any supplementing agreement, that Party shall take the necessary measures to comply immediately with the ruling of the arbitration tribunal in order to bring itself in compliance with the covered provisions.
2. The respondent Party, no later than 30 days after delivery of the ruling, shall deliver a notification to the complaining Party of the measures which it has taken or which it envisages to take in order to comply.

## ARTICLE 747

### Reasonable Period of Time

1. If immediate compliance is not possible, the respondent Party, no later than 30 days after delivery of the ruling referred to in Article 745(4), shall deliver a notification to the complaining Party of the length of the reasonable period of time it will require for compliance with the ruling referred to in Article 745(4). The Parties shall endeavour to agree on the length of the reasonable period of time to comply.
2. If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, at the earliest 20 days after the delivery of the notification referred to in paragraph 1, request in writing that the original arbitration tribunal determines the length of the reasonable period of time. The arbitration tribunal shall deliver its decision to the Parties within 20 days of the date of delivery of the request.
3. The respondent Party shall deliver a written notification of its progress in complying with the ruling referred to in Article 745(4) to the complaining Party at least one month before the expiry of the reasonable period of time.
4. The Parties may agree to extend the reasonable period of time.

## ARTICLE 748

### Compliance Review

1. The respondent Party shall, no later than the date of expiry of the reasonable period of time, deliver a notification to the complaining Party of any measure that it has taken to comply with the ruling referred to in Article 745(4).
2. When the Parties disagree on the existence of, or the consistency with the covered provisions of, any measure taken to comply, the complaining Party may deliver a request, which shall be in writing, to the original arbitration tribunal to decide on the matter. The request shall identify any measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly. The arbitration tribunal shall deliver its decision to the Parties within 45 days of the date of delivery of the request.

## ARTICLE 749

### Temporary Remedies

1. The respondent Party shall, at the request of and after consultations with the complaining Party, present an offer for temporary compensation if:
  - (a) the respondent Party delivers a notification to the complaining Party that it is not possible to comply with the ruling referred to in Article 745(4); or
  - (b) the respondent Party fails to deliver a notification of any measure taken to comply within the deadline referred to in Article 746 or before the date of expiry of the reasonable period of time; or
  - (c) the arbitration tribunal finds that no measure taken to comply exists or that the measure taken to comply is inconsistent with the covered provisions.
2. In any of the conditions referred to in points (a), (b) and (c) of paragraph 1, the complaining Party may deliver a written notification to the respondent Party that it intends to suspend the application of obligations under the covered provisions if:
  - (a) the complaining Party decides not to make a request under paragraph 1; or

- (b) the Parties do not agree on the temporary compensation within 20 days after the expiry of the reasonable period of time or the delivery of the arbitration tribunal decision under Article 748 if a request under paragraph 1 of this Article is made.

The notification shall specify the level of intended suspension of obligations.

3. Suspension of obligations shall be subject to the following conditions:

- (a) obligations under Heading Four of Part Two, the Protocol on Social Security Coordination or its annexes or Part Five may not be suspended under this Article;
- (b) by way of derogation from point (a), obligations under Part Five may be suspended only where the ruling referred to in Article 745(4) concerns the interpretation and implementation of Part Five;
- (c) obligations outside Part Five may not be suspended where the ruling referred to in Article 745(4) concerns the interpretation and implementation of Part Five; and
- (d) obligations under Title II of Heading One of Part Two in respect of financial services may not be suspended under this Article, unless the ruling referred to in Article 745(4) concerns the interpretation and application of obligations under Title II of Heading One of Part two in respect of financial services.

4. Where a Party persists in not complying with a ruling of an arbitration panel established under an earlier agreement concluded between the Parties, the other Party may suspend obligations under the covered provisions referred to in Article 735. With the exception of the rule in point (a) of paragraph 3 of this Article, all rules relating to temporary remedies in case of non-compliance and to review of any such measures shall be governed by the earlier agreement.

5. The suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation.

6. If the arbitration tribunal has found the violation in Heading One or Heading Three of Part Two, the suspension may be applied in another Title of the same Heading as that in which the tribunal has found the violation, in particular if the complaining party is of the view that such suspension is effective in inducing compliance.

7. If the arbitration tribunal has found the violation in Heading Two of Part Two:

- (a) the complaining party should first seek to suspend obligations in the same Title as that in which the arbitration tribunal has found the violation;
- (b) if the complaining party considers that it is not practicable or effective to suspend obligations with respect to the same Title as that in which the tribunal has found the violation, it may seek to suspend obligations in the other Title under the same Heading.



8. If the arbitration tribunal has found the violation in Heading One, Heading Two, Heading Three or Heading Five of Part Two, and if the complaining party considers that it is not practicable or effective to suspend obligations within the same Heading as that in which the arbitration tribunal has found the violation, and that the circumstances are serious enough, it may seek to suspend obligations under other covered provisions.

9. In the case of point (b) of paragraph 7 and paragraph 8, the complaining Party shall state the reasons for its decision.

10. The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 2 unless the respondent Party made a request under paragraph 11.

11. If the respondent Party considers that the notified level of suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation or that the principles and procedures set forth in point (b) of paragraph 7, paragraph 8 or paragraph 9 have not been followed, it may deliver a written request to the original arbitration tribunal before the expiry of the 10 day period set out in paragraph 10 to decide on the matter. The arbitration tribunal shall deliver its decision on the level of the suspension of obligations to the Parties within 30 days of the date of the request. Obligations shall not be suspended until the arbitration tribunal has delivered its decision. The suspension of obligations shall be consistent with that decision.

12. The arbitration tribunal acting pursuant to paragraph 11 shall not examine the nature of the obligations to be suspended but shall determine whether the level of such suspension exceeds the level equivalent to the nullification or impairment caused by the violation. However, if the matter referred to arbitration includes a claim that the principles and procedures set forth in point (b) of paragraph 7, paragraph 8 or paragraph 9 have not been followed, the arbitration tribunal shall examine that claim. In the event the arbitration tribunal determines that those principles and procedures have not been followed, the complaining party shall apply them consistently with point (b) of paragraph 7, paragraph 8 and paragraph 9. The parties shall accept the arbitration tribunal's decision as final and shall not seek a second arbitration procedure. This paragraph shall under no circumstances delay the date as of which the complaining Party is entitled to suspend obligations under this Article.

13. The suspension of obligations or the compensation referred to in this Article shall be temporary and shall not be applied after:

- (a) the Parties have reached a mutually agreed solution pursuant to Article 756;
- (b) the Parties have agreed that the measure taken to comply brings the respondent Party into compliance with the covered provisions; or
- (c) any measure taken to comply which the arbitration tribunal has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the respondent Party into compliance with those covered provisions.

## ARTICLE 750

### Review of any measure taken to comply after the adoption of temporary remedies

1. The respondent Party shall deliver a notification to the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. With the exception of cases under paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days from the delivery of the notification. In cases where compensation has been applied, with the exception of cases under paragraph 2, the respondent Party may terminate the application of such compensation within 30 days from the delivery of its notification that it has complied.
2. If the Parties do not reach an agreement on whether the notified measure brings the respondent Party into compliance with the covered provisions within 30 days of the date of delivery of the notification, the complaining Party shall deliver a written request to the original arbitration tribunal to decide on the matter. The arbitration tribunal shall deliver its decision to the Parties within 46 days of the date of the delivery of the request. If the arbitration tribunal finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. When relevant, the level of suspension of obligations or of compensation shall be adjusted in light of the arbitration tribunal decision.

## CHAPTER 4

### COMMON PROCEDURAL PROVISIONS

#### ARTICLE 751

##### Receipt of information

1. On request of a Party, or on its own initiative, the arbitration tribunal may seek from the Parties relevant information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the arbitration tribunal for such information.
2. On request of a Party, or on its own initiative, the arbitration tribunal may seek from any source any information it considers appropriate. The arbitration tribunal may also seek the opinion of experts as it considers appropriate and subject to any terms and conditions agreed by the Parties, where applicable.
3. The arbitration tribunal shall consider amicus curiae submissions from natural persons of a Party or legal persons established in a Party in accordance with Annex 48.
4. Any information obtained by the arbitration tribunal under this Article shall be made available to the Parties and the Parties may submit comments on that information to the arbitration tribunal.

## ARTICLE 752

### Lists of arbitrators

1. The Partnership Council shall, no later than 180 days after the date of entry into force of this Agreement, establish a list of individuals with expertise in specific sectors covered by this Agreement or its supplementing agreements who are willing and able to serve as members of an arbitration tribunal. The list shall comprise at least 15 persons and shall be composed of three sub-lists:

- (a) one sub-list of individuals established on the basis of proposals by the Union;
- (b) one sub-list of individuals established on the basis of proposals by the United Kingdom; and
- (c) one sub-list of individuals who are not nationals of either Party who shall serve as chairperson to the arbitration tribunal.

Each sub-list shall include at least five individuals. The Partnership Council shall ensure that the list is always maintained at this minimum number of individuals.

2. The Partnership Council may establish additional lists of individuals with expertise in specific sectors covered by this Agreement or by any supplementing agreement. Subject to the agreement of the Parties, such additional lists may be used to compose the arbitration tribunal in accordance with the procedure set out in Article 740(3) and (5). Additional lists shall be composed of two sub-lists:

- (a) one sub-list of individuals established on the basis of proposals by the Union; and
- (b) one sub-list of individuals established on the basis of proposals by the United Kingdom.

3. The lists referred to in paragraphs 1 and 2 shall not comprise persons who are members, officials or other servants of the Union institutions, of the Government of a Member State, or of the Government of the United Kingdom.

## ARTICLE 753

### Replacement of arbitrators

If during dispute settlement procedures under this Title, an arbitrator is unable to participate, withdraws, or needs to be replaced because that arbitrator does not comply with the requirements of the Code of Conduct, the procedure set out in Article 740 shall apply. The time period for the delivery of the ruling or decision shall be extended for the time necessary for the appointment of the new arbitrator.

## ARTICLE 754

### Arbitration tribunal decisions and rulings

1. The deliberations of the arbitration tribunal shall be kept confidential. The arbitration tribunal shall make every effort to draft rulings and take decisions by consensus. If this is not possible, the arbitration tribunal shall decide the matter by majority vote. In no case shall separate opinions of arbitrators be disclosed.
2. The decisions and rulings of the arbitration tribunal shall be binding on the Union and on the United Kingdom. They shall not create any rights or obligations with respect to natural or legal persons.
3. Decisions and rulings of the arbitration tribunal cannot add to or diminish the rights and obligations of the Parties under this Agreement or under any supplementing agreement.
4. For greater certainty, the arbitration tribunal shall have no jurisdiction to determine the legality of a measure alleged to constitute a breach of this Agreement or of any supplementing agreement, under the domestic law of a Party. No finding made by the arbitration tribunal when ruling on a dispute between the Parties shall bind the domestic courts or tribunals of either Party as to the meaning to be given to the domestic law of that Party.
5. For greater certainty, the courts of each Party shall have no jurisdiction in the resolution of disputes between the Parties under this Agreement.

6. Each Party shall make the rulings and decisions of the arbitration tribunal publicly available, subject to the protection of confidential information.

7. The information submitted by the Parties to the arbitration tribunal shall be treated in accordance with the confidentiality rules laid down in Annex 48.

## ARTICLE 755

### Suspension and termination of the arbitration proceedings

At the request of both Parties, the arbitration tribunal shall suspend its work at any time for a period agreed by the Parties and not exceeding 12 consecutive months. The arbitration tribunal shall resume its work before the end of the suspension period at the written request of both Parties, or at the end of the suspension period at the written request of either Party. The requesting Party shall deliver a notification to the other Party accordingly. If a Party does not request the resumption of the arbitration tribunal's work at the expiry of the suspension period, the authority of the arbitration tribunal shall lapse and the dispute settlement procedure shall be terminated. In the event of a suspension of the work of the arbitration tribunal, the relevant time periods shall be extended by the same time period for which the work of the arbitration tribunal was suspended.



## ARTICLE 756

### Mutually agreed solution

1. The Parties may at any time reach a mutually agreed solution with respect to any dispute referred to in Article 735.
2. If a mutually agreed solution is reached during panel proceedings, the Parties shall jointly notify the agreed solution to the chairperson of the arbitration tribunal. Upon such notification, the arbitration proceedings shall be terminated.
3. The solution may be adopted by means of a decision of the Partnership Council. Mutually agreed solutions shall be made publicly available. The version disclosed to the public shall not contain any information either Party has designated as confidential.
4. Each Party shall take the measures necessary to implement the mutually agreed solution within the agreed time period.
5. No later than the date of expiry of the agreed time period, the implementing Party shall inform the other Party in writing of any measures thus taken to implement the mutually agreed solution.

## ARTICLE 757

### Time Periods

1. All time periods laid down in this Title shall be counted in days from the day following the act to which they refer.
2. Any time period referred to in this Title may be modified by mutual agreement of the Parties.
3. The arbitration tribunal may at any time propose to the Parties to modify any time period referred to in this Title, stating the reasons for the proposal.

## ARTICLE 758

### Costs

1. Each Party shall bear its own expenses derived from the participation in the arbitration tribunal procedure.
2. The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the members of the arbitration tribunal. The remuneration of the arbitrators shall be in accordance with Annex 48.

## ARTICLE 759

### Annexes

1. Dispute settlement procedures set out in this Title shall be governed by the rules of procedure set out in Annex 48 and conducted in accordance with Annex 49.
2. The Partnership Council may amend Annexes 48 and 49.

## CHAPTER 5

### SPECIFIC ARRANGEMENTS FOR UNILATERAL MEASURES

## ARTICLE 760

### Special procedures for remedial measures and rebalancing

1. For the purposes of Article 374 and Article 411(2) and (3), this Title applies with the modifications set out in this Article.

2. By way of derogation from Article 740 and Annex 48, if the Parties do not agree on the composition of the arbitration tribunal within two days, the co-chair of the Partnership Council from the complaining Party shall select, no later than one day after the expiry of the two-day time period, an arbitrator by lot from the sub-list of each Party and the chairperson of the arbitration tribunal by lot from the sub-list of chairpersons established pursuant to Article 752. The co-chair of the Partnership Council from the complaining Party may delegate such selection by lot of the arbitrator or chairperson. Each individual shall confirm his or her availability to both Parties within two days from the date on which he or she was informed of his or her appointment. The organisational meeting referred to in Rule 10 of Annex 48 shall take place within two days from the establishment of the arbitration tribunal.

3. By way of derogation from Rule 11 of Annex 48 the complaining Party shall deliver its written submission no later than seven days after the date of establishment of the arbitration tribunal. The respondent Party shall deliver its written submission no later than seven days after the date of delivery of the written submission of the complaining Party. The arbitration tribunal shall adjust any other relevant time periods of the dispute settlement procedure as necessary to ensure the timely delivery of the report.

4. Article 745 does not apply and references to the ruling in this Title shall be read as references to the ruling referred to in Article 374(10) or point (c) of Article 411(3).

5. By way of derogation from Article 748(2), the arbitration tribunal shall deliver its decision to the Parties within 30 days from the date of delivery of the request.

## ARTICLE 761

Suspension of obligations for the purposes of Article 374(12), Article 501(5) and Article 506(7)

1. The level of suspension of obligations shall not exceed the level equivalent to the nullification or impairment of benefits under this Agreement or under a supplementing agreement that is directly caused by the remedial or compensatory measures from the date the remedial or compensatory measures enter into effect until the date of the delivery of the arbitration ruling.
2. The level of suspension of obligations requested by the complaining Party and the determination of the level of suspension of obligations by the arbitration tribunal shall be based on facts demonstrating that the nullification or impairment arises directly from the application of the remedial or compensatory measure and affects specific goods, service suppliers, investors or other economic actors and not merely on allegation, conjecture or remote possibility.
3. The level of nullified or impaired benefits requested by the complaining Party or determined by the arbitration tribunal:
  - (a) shall not include punitive damages, interest or hypothetical losses of profits or business opportunities;
  - (b) shall be reduced by any prior refunds of duties, indemnification of damages or other forms of compensation already received by the concerned operators or the concerned Party; and

- (c) shall not include the contribution to the nullification or impairment by wilful or negligent action or omission of the concerned Party or any person or entity in relation to whom remedies are sought pursuant to the intended suspension of obligations.

## ARTICLE 762

### Conditions for rebalancing, remedial, compensatory and safeguard measures

Where a Party takes a measure under Article 374, Article 411, Article 469, Article 501, Article 506 or Article 773, that measure shall only be applied in respect of covered provisions within the meaning of Article 735 and shall comply, *mutatis mutandis*, with the conditions set out in Article 749(3).

## TITLE II

### BASIS FOR COOPERATION

#### ARTICLE 763

##### Democracy, rule of law and human rights

1. The Parties shall continue to uphold the shared values and principles of democracy, the rule of law, and respect for human rights, which underpin their domestic and international policies. In that regard, the Parties reaffirm their respect for the Universal Declaration of Human Rights and the international human rights treaties to which they are parties.
2. The Parties shall promote such shared values and principles in international forums. The Parties shall cooperate in promoting those values and principles, including with or in third countries.

## ARTICLE 764

### Fight against climate change

1. The Parties consider that climate change represents an existential threat to humanity and reiterate their commitment to strengthening the global response to this threat. The fight against human-caused climate change as elaborated in the United Nations Framework Convention on Climate Change ("UNFCCC") process, and in particular in the Paris Agreement adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its 21st session (the "Paris Agreement"), inspires the domestic and external policies of the Union and the United Kingdom. Accordingly, each Party shall respect the Paris Agreement and the process set up by the UNFCCC and refrain from acts or omissions that would materially defeat the object and purpose of the Paris Agreement.
2. The Parties shall advocate the fight against climate change in international forums, including by engaging with other countries and regions to increase their level of ambition in the reduction of greenhouse emissions.



## ARTICLE 765

### Countering proliferation of weapons of mass destruction

1. The Parties consider that the proliferation of weapons of mass destruction ("WMD") and their means of delivery, to both state and non-state actors, represents one of the most serious threats to international stability and security. The Parties therefore agree to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery through full compliance with and national implementation of existing obligations under international disarmament and non-proliferation treaties and agreements and other relevant international obligations.
2. The Parties, furthermore, agree to cooperate on and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery by:
  - (a) taking steps to sign, ratify, or accede to, as appropriate, and fully implement all other relevant international instruments; and
  - (b) establishing an effective system of national export controls, controlling the export as well as transit of WMD-related goods, including a WMD end-use control on dual use technologies and containing effective sanctions for breaches of export controls.
3. The Parties agree to establish a regular dialogue on those matters.

## ARTICLE 766

### Small arms and light weapons and other conventional weapons

1. The Parties recognise that the illicit manufacture, transfer and circulation of small arms and light weapons ("SALW"), including their ammunition, their excessive accumulation, their poor management, inadequately secured stockpiles and their uncontrolled spread continue to pose a serious threat to peace and international security.
2. The Parties agree to observe and fully implement their respective obligations to deal with the illicit trade in SALW, including their ammunition, under existing international agreements and UN Security Council resolutions, as well as their respective commitments within the framework of other international instruments applicable in this area, such as the UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects.
3. The Parties recognise the importance of domestic control systems for the transfer of conventional arms in line with existing international standards. The Parties recognise the importance of applying such controls in a responsible manner, as a contribution to international and regional peace, security and stability, and to the reduction of human suffering, as well as to the prevention of diversion of conventional weapons.
4. The Parties undertake, in that regard, to fully implement the Arms Trade Treaty and to cooperate with each other within the framework of that Treaty, including in promoting the universalisation and full implementation of that Treaty by all UN member states.

5. The Parties therefore undertake to cooperate in their efforts to regulate or improve the regulation of international trade in conventional arms and to prevent, combat and eradicate the illicit trade in arms.
6. The Parties agree to establish a regular dialogue on those matters.

#### ARTICLE 767

##### The most serious crimes of concern to the international community

1. The Parties reaffirm that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation, including with the International Criminal Court. The Parties agree to fully support the universality and integrity of the Rome Statute of the International Criminal Court and related instruments.
2. The Parties agree to establish a regular dialogue on those matters.

## ARTICLE 768

### Counter-terrorism

1. The Parties shall cooperate at the bilateral, regional and international levels to prevent and combat acts of terrorism in all its forms and manifestations in accordance with international law, including, where applicable, international counterterrorism-related agreements, international humanitarian law and international human rights law, as well as in accordance with the principles of the Charter of the United Nations.

2. The Parties shall enhance cooperation on counter-terrorism, including preventing and countering violent extremism and the financing of terrorism, with the aim of advancing their common security interests, taking into account, the United Nations Global Counter-Terrorism Strategy and relevant United Nations Security Council resolutions, without prejudice to law enforcement and judicial cooperation in criminal matters and intelligence exchanges.

3. The Parties agree to establish a regular dialogue on those matters. This dialogue will, inter alia, aim to promote and facilitate:

- (a) the sharing of assessments on the terrorist threat;
- (b) the exchange of best practices and expertise on counter terrorism;

- (c) operational cooperation and exchange of information; and
- (d) exchanges on cooperation in the framework of multilateral organisations.

## ARTICLE 769

### Personal data protection

1. The Parties affirm their commitment to ensuring a high level of personal data protection. They shall endeavour to work together to promote high international standards.
2. The Parties recognise that individuals have a right to the protection of personal data and privacy and that high standards in this regard contribute to trust in the digital economy and to the development of trade, and are a key enabler for effective law enforcement cooperation. To that end, the Parties shall undertake to respect, each in the framework of their respective laws and regulations, the commitments they have made in this Agreement in connection with that right.
3. The Parties shall cooperate at bilateral and multilateral levels, while respecting their respective laws and regulations. Such cooperation may include dialogue, exchanges of expertise, and cooperation on enforcement, as appropriate, with respect to personal data protection.

4. Where this Agreement or any supplementing agreement provide for the transfer of personal data, such transfer shall take place in accordance with the transferring Party's rules on international transfers of personal data. For greater certainty, this paragraph is without prejudice to the application of any specific provisions in this Agreement relating to the transfer of personal data, in particular Article 202 and Article 525, and to Title I of Part Six. Where needed, each Party will make best efforts, while respecting its rules on international transfers of personal data, to establish safeguards necessary for the transfer of personal data, taking into account any recommendations of the Partnership Council under point (h) of Article 7(4).

#### ARTICLE 770

##### Global cooperation on issues of shared economic, environmental and social interest

1. The Parties recognise the importance of global cooperation to address issues of shared economic, environmental and social interest. Where it is in their mutual interest, they shall promote multilateral solutions to common problems.

2. While preserving their decision-making autonomy, and without prejudice to other provisions of this Agreement or any supplementing agreement, the Parties shall endeavour to cooperate on current and emerging global issues of common interest such as peace and security, climate change, sustainable development, cross-border pollution, environmental protection, digitalisation, public health and consumer protection, taxation, financial stability, and free and fair trade and investment. To that end, they shall endeavour to maintain a constant and effective dialogue and to coordinate their positions in multilateral organisations and forums in which the Parties participate, such as the United Nations, the Group of Seven (G-7) and the Group of Twenty (G-20), the Organisation for Economic Co-operation and Development, the International Monetary Fund, the World Bank and the World Trade Organization.

## ARTICLE 771

### Essential elements

Article 763(1), Article 764(1) and Article 765(1) constitute essential elements of the partnership established by this Agreement and any supplementing agreement.

## TITLE III

### FULFILLMENT OF OBLIGATIONS AND SAFEGUARD MEASURES

#### ARTICLE 772

##### Fulfilment of obligations described as essential elements

1. If either Party considers that there has been a serious and substantial failure by the other Party to fulfil any of the obligations that are described as essential elements in Article 771, it may decide to terminate or suspend the operation of this Agreement or any supplementing agreement in whole or in part.
2. Before doing so, the Party invoking the application of this Article shall request that the Partnership Council meet immediately with a view to seeking a timely and mutually agreeable solution. If no mutually agreeable solution is found within 30 days from the date of the request to the Partnership Council, the Party may take the measures referred to in paragraph 1.
3. The measures referred to in paragraph 1 shall be in full respect of international law and shall be proportionate. Priority shall be given to the measures which least disturb the functioning of this Agreement and of any supplementing agreements.



4. The Parties consider that, for a situation to constitute a serious and substantial failure to fulfil any of the obligations described as essential elements in Article 771, its gravity and nature would have to be of an exceptional sort that threatens peace and security or that has international repercussions. For greater certainty, an act or omission which materially defeats the object and purpose of the Paris Agreement shall always be considered as a serious and substantial failure for the purposes of this Article.

## ARTICLE 773

### Safeguard measures

1. If serious economic, societal or environmental difficulties of a sectorial or regional nature, including in relation to fishing activities and their dependent communities, that are liable to persist arise, the Party concerned may unilaterally take appropriate safeguard measures. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to those measures which will least disturb the functioning of this Agreement.
2. The Party concerned shall, without delay, notify the other Party through the Partnership Council and shall provide all relevant information. The Parties shall immediately enter into consultations in the Partnership Council with a view to finding a mutually agreeable solution.

3. The Party concerned may not take safeguard measures until one month has elapsed after the date of notification referred to in paragraph 2, unless the consultation procedure pursuant to paragraph 2 has been jointly concluded before the expiration of the stated time limit. When exceptional circumstances requiring immediate action exclude prior examination, the Party concerned may apply forthwith the safeguard measures strictly necessary to remedy the situation.

The Party concerned shall, without delay, notify the measures taken to the Partnership Council and shall provide all relevant information.

4. If a safeguard measure taken by the Party concerned creates an imbalance between the rights and obligations under this Agreement or under any supplementing agreement, the other Party may take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to those measures which will least disturb the functioning of this Agreement. Paragraphs 2 to 4 shall apply *mutatis mutandis* to such rebalancing measures.

5. Either Party may, without having prior recourse to consultations pursuant to Article 738, initiate the arbitration procedure referred to in Article 739 to challenge a measure taken by the other Party in application of paragraphs 1 to 5 of this Article.

6. The safeguard measures referred to in paragraph 1 and the rebalancing measures referred to in paragraph 5 may also be taken in relation to a supplementing agreement, unless otherwise provided therein.

## PART SEVEN

### FINAL PROVISIONS

#### ARTICLE 774

##### Territorial scope

1. This Agreement applies to:
  - (a) the territories to which the TEU, the TFEU and the Treaty establishing the European Atomic Energy Community are applicable, and under the conditions laid down in those Treaties; and
  - (b) the territory of the United Kingdom.
2. This Agreement also applies to the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man to the extent set out in Heading Five of Part Two and Article 520.
3. This Agreement shall neither apply to Gibraltar nor have any effects in that territory.

4. This Agreement does not apply to the overseas territories having special relations with the United Kingdom: Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; Saint Helena, Ascension and Tristan da Cunha; South Georgia and the South Sandwich Islands; and Turks and Caicos Islands.

#### ARTICLE 775

##### Relationship with other agreements

This Agreement and any supplementing agreement apply without prejudice to any earlier bilateral agreement between the United Kingdom of the one part and the Union and the European Atomic Energy Community of the other part. The Parties reaffirm their obligations to implement any such Agreement.

#### ARTICLE 776

##### Review

The Parties shall jointly review the implementation of this Agreement and supplementing agreements and any matters related thereto five years after the entry into force of this Agreement and every five years thereafter.

## ARTICLE 777

### Classified information and sensitive non-classified information

Nothing in this Agreement or in any supplementing agreement shall be construed as requiring a Party to make available classified information.

Classified information or material provided by or exchanged between the Parties under this Agreement or any supplementing agreement shall be handled and protected in compliance with the Agreement on security procedures for exchanging and protecting classified information and any implementing arrangement concluded under it.

The Parties shall agree upon handling instructions to ensure the protection of sensitive non-classified information exchanged between them.

## ARTICLE 778

### Integral parts of this Agreement

1. The Protocols, Annexes, Appendices and footnotes to this Agreement shall form an integral part of this Agreement.

2. Each of the Annexes to this Agreement, including its appendices, shall form an integral part of the Section, Chapter, Title, Heading or Protocol that refers to that Annex or to which reference is made in that Annex. For greater certainty:

- (a) Annex 1 forms an integral part of Title III of Part One;
- (b) Annexes 2, 3, 4, 5, 6, 7, 8 and 9 form an integral part of Chapter 2 of Title I of Heading One of Part Two;
- (c) Annex 10 forms an integral part of Chapter 3 of Title I of Heading One of Part Two;
- (d) Annexes 11, 12, 13, 14, 15, 16 and 17 form an integral part of Chapter 4 of Title I of Heading One of Part Two;
- (e) Annex 18 forms an integral part of Chapter 5 of Title I of Heading One of Part Two;
- (f) Annexes 19, 20, 21, 22, 23 and 24 form an integral part of Title II of Heading One of Part Two;
- (g) Annex 25 forms an integral part of Title VI of Heading One of Part Two;
- (h) Annexes 26, 27, 28 and 29 form an integral part of Title VIII of Heading One of Part Two;

- (i) Annex 27 forms an integral part of Title XI of Heading One of Part Two;
- (j) Annex 30 and any annex adopted in accordance with Article 454 form an integral part of Title Two of Heading Two of Part Two;
- (k) Annex 31 forms an integral part of Title I of Heading Three of Part Two;
- (l) Annexes 32, 33 and 34 form an integral part of Title II of Heading Three of Part Two;
- (m) Annexes 35, 36, 37 and 38 form an integral part of Heading Five of Part Two;
- (n) Annex 39 forms an integral part of Title II of Part Three;
- (o) Annex 40 forms an integral part of Title III of Part Three;
- (p) Annex 41 forms an integral part of Title V of Part Three;
- (q) Annex 42 forms an integral part of Title VI of Part Three;
- (r) Annex 43 forms an integral part of Title VII of Part Three;
- (s) Annex 44 forms an integral part of Title IX of Part Three;
- (t) Annex 45 forms an integral part of Title III, Title VII and Title XI of Part Three;

- (u) Annex 46 forms an integral part of Title XI of Part Three;
- (v) Annex 47 forms an integral part of Section 2 of Chapter 1 of Part Five;
- (w) Annexes 48 and 49 form an integral part of Title I of Part Six;
- (x) the Annex to the protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties forms an integral part of the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties;
- (y) Annexes SSC-1, SSC-2, SSC-3, SSC-4, SSC-5, SSC-6, SSC-7 and SSC-8 and their Appendices form an integral part of the Protocol on Social Security Coordination.

## ARTICLE 779

### Termination

Either Party may terminate this Agreement by written notification through diplomatic channels. This Agreement and any supplementing agreement shall cease to be in force on the first day of the twelfth month following the date of notification.



## ARTICLE 780

### Authentic texts

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages. By 30 April 2021, all language versions of the Agreement shall be subject to a process of final legal-linguistic revision. Notwithstanding the previous sentence, the process of final legal-linguistic revision for the English version of the Agreement shall be finalised at the latest by the day referred to in Article 783(1) if that day is earlier than 30 April 2021.

The language versions resulting from the above process of final legal-linguistic revision shall replace *ab initio* the signed versions of the Agreement and shall be established as authentic and definitive by exchange of diplomatic notes between the Parties.

## ARTICLE 781

### Future accessions to the Union

1. The Union shall notify the United Kingdom of any new request for accession of a third country to the Union.
2. During the negotiations between the Union and a third country regarding the accession of that country to the Union<sup>1</sup>, the Union shall endeavour to:
  - (a) on request of the United Kingdom and, to the extent possible, provide any information regarding any matter covered by this Agreement and any supplementing agreement; and
  - (b) take into account any concerns expressed by the United Kingdom.
3. The Partnership Council shall examine any effects of accession of a third country to the Union on this Agreement and any supplementing agreement sufficiently in advance of the date of such accession.
4. To the extent necessary, the United Kingdom and the Union shall, before the entry into force of the agreement on the accession of a third country to the Union:
  - (a) amend this Agreement or any supplementing agreement,

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<sup>1</sup> For greater certainty, paragraphs 2 to 9 apply in respect of negotiations between the Union and a third country for accession to the Union taking place after the entry into force of this Agreement, notwithstanding the fact a request for accession took place before the entry into force of this Agreement.

- (b) put in place by decision of the Partnership Council any other necessary adjustments or transitional arrangements regarding this Agreement or any supplementing agreement; or
- (c) decide within the Partnership Council whether:
  - (i) to apply Article 492 to the nationals of that third country; or
  - (ii) to establish transitional arrangements as regards Article 492 in relation to that third country and its nationals once it accedes to the Union.

5. In the absence of a decision under point (c)(i) or (ii) of paragraph 4 of this Article by the entry into force of the agreement on the accession of the relevant third country to the Union, Article 492 shall not apply to nationals of that third country.

6. In the event that the Partnership Council establishes transitional arrangements as referred to in point (c)(ii) of paragraph 4, it shall specify their duration. The Partnership Council may extend the duration of those transitional arrangements.

7. Before the expiry of the transitional arrangements referred to in point (c)(ii) of paragraph 4 of this Article, the Partnership Council shall decide whether to apply Article 492 to the nationals of that third country from the end of the transitional arrangements. In the absence of such a decision Article 492 shall not apply in relation to the nationals of that third country from the end of the transitional arrangements.

8. Point (c) of paragraph 4, and paragraphs 5 to 7 are without prejudice to the Union's prerogatives under its domestic legislation.

9. For greater certainty, without prejudice to point (c) of paragraph 4 and paragraphs 5 to 7, this Agreement shall apply in relation to a new Member State of the Union from the date of accession of that new Member State to the Union.

## ARTICLE 782

### Interim provision for transmission of personal data to the United Kingdom

1. For the duration of the specified period, transmission of personal data from the Union to the United Kingdom shall not be considered as a transfer to a third country under Union law, provided that the data protection legislation of the United Kingdom on 31 December 2020, as it is saved and incorporated into United Kingdom law by the European Union (Withdrawal) Act 2018 and as modified by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419)<sup>1</sup> (the "applicable data protection regime"), applies and provided that the United Kingdom does not exercise the designated powers without the agreement of the Union within the Partnership Council.

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<sup>1</sup> As amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020 (SI 2020/1586).

2. Subject to paragraphs 3 to 11, paragraph 1 shall also apply in respect of transfers of personal data from Iceland, the Principality of Liechtenstein and the Kingdom of Norway to the United Kingdom during the specified period made under Union law as applied in those states by the Agreement on the European Economic Area done at Porto on 2 May 1992, for so long as paragraph 1 applies to transfers of personal data from the Union to the United Kingdom, provided that those states notify both Parties in writing of their express acceptance to apply this provision.

3. For the purposes of this Article, the "designated powers" means the powers:

- (a) to make regulations pursuant to sections 17A, 17C and 74A of the UK Data Protection Act 2018;
- (b) to issue a new document specifying standard data protection clauses pursuant to section 119A of the UK Data Protection Act 2018;
- (c) to approve a new draft code of conduct pursuant to Article 40(5) of the UK General Data Protection Regulation ("UK GDPR"), other than a code of conduct which cannot be relied on to provide appropriate safeguards for transfers of personal data to a third country under Article 46(2)(e) of the UK GDPR;
- (d) to approve new certification mechanisms pursuant to Article 42(5) of the UK GDPR, other than certification mechanisms which cannot be relied on to provide appropriate safeguards for transfers of personal data to a third country under Article 46(2)(f) of the UK GDPR;

- (e) to approve new binding corporate rules pursuant to Article 47 of the UK GDPR;
- (f) to authorise new contractual clauses referred to in Article 46(3)(a) of the UK GDPR; or
- (g) to authorise new administrative arrangements referred to in Article 46(3)(b) of the UK GDPR.

4. The "specified period" begins on the date of entry into force of this Agreement and, subject to paragraph 5, ends on one of the following dates, whichever is earlier:

- (a) on the date on which adequacy decisions in relation to the United Kingdom are adopted by the European Commission under Article 36(3) of Directive (EU) 2016/680 and under Article 45(3) of Regulation (EU) 2016/679, or
- (b) on the date four months after the date on which the specified period begins, which period shall be extended by two further months unless one of the Parties objects.

5. Subject to paragraphs 6 and 7, if, during the specified period, the United Kingdom amends the applicable data protection regime or exercises the designated powers without the agreement of the Union within the Partnership Council, the specified period shall end on the date on which the powers are exercised or the amendment comes into force.

6. The references to exercising the designated powers in paragraphs 1 and 5 do not include the exercise of such powers the effect of which is limited to alignment with the relevant Union data protection law.

7. Anything that would otherwise be an amendment to the applicable data protection regime which is:

- (a) made with the agreement of the Union within the Partnership Council; or
- (b) limited to alignment with the relevant Union data protection law;

shall not be treated as an amendment to the applicable data protection regime for the purposes of paragraph 5 and instead should be treated as being part of the applicable data protection regime for the purposes of paragraph 1.

8. For the purposes of paragraphs 1, 5 and 7, "the agreement of the Union within the Partnership Council" means:

- (a) a decision of the Partnership Council as described in paragraph 11; or
- (b) deemed agreement as described in paragraph 10.

9. Where the United Kingdom notifies the Union that it proposes to exercise the designated powers or proposes to amend the applicable data protection regime, either party may request, within five working days, a meeting of the Partnership Council which must take place within two weeks of such request.

10. If no such meeting is requested, the Union is deemed to have given agreement to such exercise or amendment during the specified period.
11. If such a meeting is requested, at that meeting the Partnership Council shall consider the proposed exercise or amendment and may adopt a decision stating that it agrees to the exercise or amendment during the specified period.
12. The United Kingdom shall, as far as is reasonably possible, notify the Union when, during the specified period, it enters into a new instrument which can be relied on to transfer personal data to a third country under Article 46(2)(a) of the UK GDPR or section 75(1)(a) of the UK Data Protection Act 2018 during the specified period. Following a notification by the United Kingdom under this paragraph, the Union may request a meeting of the Partnership Council to discuss the relevant instrument.
13. Title I of Part Six does not apply in respect of disputes regarding the interpretation and application of this Article.



## ARTICLE 783

### Entry into force and provisional application

1. This Agreement shall enter into force on the first day of the month following that in which both Parties have notified each other that they have completed their respective internal requirements and procedures for establishing their consent to be bound.
  
2. The Parties agree to provisionally apply this Agreement from 1 January 2021 provided that prior to that date they have notified each other that their respective internal requirements and procedures necessary for provisional application have been completed. Provisional application shall cease on one of the following dates, whichever is the earliest:
  - (a) 28 February 2021 or another date as decided by the Partnership Council; or
  
  - (b) the day referred to in paragraph 1.
  
3. As from the date from which this Agreement is provisionally applied, the Parties shall understand references in this Agreement to "the date of entry into force of this Agreement" or to "the entry into force of this Agreement" as references to the date from which this Agreement is provisionally applied.