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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement in respect of Gibraltar 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

TERMS AND CONDITIONS OF EMPLOYMENT
AS REFERRED TO IN ARTICLE 295 OF THE AGREEMENT

List of terms and conditions of employment as referred to in Article 295:

- (a) maximum work periods and minimum rest periods;
- (b) minimum paid annual leave;
- (c) remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;
- (d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;
- (e) health, safety and hygiene at work;
- (f) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people;
- (g) equality of treatment between men and women and other provisions on non-discrimination;
- (h) the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work;

- (i) allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons.

Point (i) shall apply exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the territory where they are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.

RULES OF PROCEDURE FOR DISPUTE SETTLEMENT

I. Definitions

1. For the purposes of Part Six of this Agreement and of these Rules of Procedure, the following definitions apply:
 - (a) "administrative staff", in respect of an arbitrator, means individuals under the direction and control of an arbitrator, other than assistants;
 - (b) "adviser" means an individual retained by a Party to advise or assist that Party in connection with the arbitration proceedings;
 - (c) "arbitration tribunal" means a tribunal established under Article 306 of this Agreement;
 - (d) "arbitrator" means a member of the arbitration tribunal;
 - (e) "assistant" means an individual who, under the terms of appointment and under the direction and control of an arbitrator, conducts research or provides assistance to that arbitrator;

- (f) "complaining Party" means any Party that requests the establishment of an arbitration tribunal under Article 306 of this Agreement;
- (g) "registry" means an external body with relevant expertise appointed by the Parties to provide administrative support for the proceedings;
- (h) "respondent Party" means the Party that is alleged to be in violation of the covered provisions; and
- (i) "representative of a Party" means an employee or any individual appointed by a government department, agency or any other public entity of a Party who represents the Party for the purposes of a dispute under this Agreement or any supplementing agreement.

II. Notifications

2. Any request, notice, written submission or other document (hereinafter referred to as "notification") of:
 - (a) the arbitration tribunal shall be sent to both Parties at the same time;
 - (b) a Party, which is addressed to the arbitration tribunal, shall be copied to the other Party at the same time; and
 - (c) a Party, which is addressed to the other Party, shall be copied to the arbitration tribunal at the same time, as appropriate.

3. Any notification shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to be delivered on the date of its sending.
4. All notifications shall be addressed to the Legal Service of the European Commission and to the Legal Adviser of the Foreign, Commonwealth & Development Office of the United Kingdom, respectively.
5. Minor errors of a clerical nature in a request, notice, written submission or other document related to the arbitration tribunal proceedings may be corrected by the delivery of a new document clearly indicating the changes.
6. If the last day for the delivery of a document falls on a non-working day of the institutions of the Union or of the government of the United Kingdom or of Gibraltar, the time period for the delivery of the document shall end on the first following working day.

III. Appointment of arbitrators

7. If an arbitrator is selected by lot, pursuant to Article 306 of Part Six, the co-chair of the Cooperation Council of the complaining Party shall promptly inform the co-chair of the respondent Party of the date, time and venue of the lot. The respondent Party may, if it so chooses, be present during the lot. In any event, the lot shall be carried out with the Party or Parties that are present.

8. The co-chair of the complaining Party shall notify, in writing, each individual who has been selected to serve as an arbitrator of their selection. Each individual shall confirm their availability to both Parties within five days after the date of delivery of the notification.
9. For the purposes of Article 306, the co-chair of the Cooperation Council of the complaining Party shall select by lot:
 - (a) an arbitrator from the individuals who have been formally proposed by a Party as arbitrators for its sub-list pursuant to points (a) or (b) of Article 319(1), as applicable, or, in the absence of those, from the individuals who have been formally proposed by the other Party for that Party's sub-list; and
 - (b) a chairperson from the individuals who have been formally proposed by one or both Parties for the sub-list of chairpersons pursuant to point (c) of Article 319(1).
10. The Parties may appoint a registry to assist in the organisation and conduct of specific dispute settlement proceedings on the basis of ad-hoc arrangements or on the basis of arrangements adopted by the Cooperation Council pursuant to Article 326 of this Agreement.
11. The arbitrators shall accept their appointment by signing the appointment contracts. The Parties shall endeavour to ensure that, at the latest by the time all the selected arbitrators have confirmed their availability, they have agreed on the remuneration and the reimbursement of expenses of the arbitrators and assistants, and have prepared the necessary appointment contracts, with a view to having them signed promptly. The remuneration and expenses of the arbitrators shall be based on WTO standards. The remuneration and expenses of an assistant or assistants of an arbitrator shall not exceed 50 % of the remuneration of that arbitrator.

IV. Organisational meeting

12. Unless the Parties agree otherwise, they shall meet the arbitration tribunal within seven days after its establishment in order to determine such matters as the Parties or the arbitration tribunal deem appropriate, including the timetable of the arbitration proceedings. Arbitrators and representatives of the Parties may take part in this meeting through any means, including telephone or video-conference.

V. Written submissions

13. The complaining Party shall deliver its written submission no later than 30 days after the date of establishment of the arbitration tribunal. The respondent Party shall deliver its written submission no later than 30 days after the date of delivery of the written submission of the complaining Party.

VI. Operation of the arbitration tribunal

14. The chairperson of the arbitration tribunal shall preside at all its meetings. The arbitration tribunal may delegate to the chairperson the authority to make administrative and procedural decisions.
15. Unless otherwise provided in Part Six of this Agreement or in these Rules of Procedure, the arbitration tribunal may conduct its activities by any means, including telephone, video-conference or other electronic means of communication.
16. Only arbitrators may take part in the deliberations of the arbitration tribunal, but the arbitration tribunal may permit their assistants to be present at its deliberations.

17. The drafting of any ruling, decision and report shall remain the exclusive responsibility of the arbitration tribunal and shall not be delegated.
18. Where a procedural question arises that is not covered by Part Six of this Agreement or its Annexes, the arbitration tribunal, after consulting the Parties, may adopt an appropriate procedure that is compatible with those provisions.
19. When the arbitration tribunal considers that there is a need to modify any of the time periods for the arbitration proceedings other than the time periods set out in Part Six of this Agreement or to make any other procedural or administrative adjustment, it shall inform the Parties, in writing and after consultations of the Parties, of the reasons for the change or adjustment and of the time period or adjustment needed.

VII. Replacement

20. When a Party considers that an arbitrator does not comply with the requirements of Annex 30 and for that reason should be replaced, that Party shall notify the other Party within 15 days after the date on which it obtained sufficient evidence of the arbitrator's alleged non-compliance.
21. The Parties shall consult within 15 days after the date of the notification referred to in Rule 20. They shall inform the arbitrator of the alleged non-compliance and may request the arbitrator to take steps to remedy it. They may also, if they agree, remove the arbitrator and select a new arbitrator in accordance with Article 306 of this Agreement.

22. If the Parties fail to agree on the need to replace an arbitrator other than the chairperson of the arbitration tribunal, either Party may request that this matter be referred to the chairperson of the arbitration tribunal, whose decision shall be final.

If the chairperson of the arbitration tribunal finds that the arbitrator does not comply with the requirements of Annex 30, the new arbitrator shall be selected in accordance with Article 306 of this Agreement.

23. If the Parties fail to agree on the need to replace the chairperson, either Party may request that this matter be referred to one of the other individuals on the sub-list of chairpersons established pursuant to Article 319 of this Agreement. Their name shall be drawn by lot by the co-chair of the Cooperation Council from the requesting Party, or the chair's delegate. The decision by the selected person on the need to replace the chairperson shall be final.

If this person finds that the chairperson does not comply with the requirements of Annex 30, the chairperson shall be selected in accordance with Article 306 of this Agreement.

VIII. Hearings

24. On the basis of the timetable determined pursuant to Rule 12, after consulting with the Parties and the other arbitrators, the chairperson of the arbitration tribunal shall notify to the Parties the date, time and venue of the hearing. That information shall be made publicly available by the Party in which the hearing takes place, unless the hearing is closed to the public.

25. Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is the United Kingdom, in respect of Gibraltar, and in London if the complaining Party is the Union. The respondent Party shall be in charge of the logistical administration of the hearing and bear the expenses derived therefrom.
26. The arbitration tribunal may convene additional hearings if the Parties so agree.
27. All arbitrators shall be present during the entirety of the hearing.
28. Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether the hearing is open to the public or not:
- (a) representatives of a Party;
 - (b) advisers;
 - (c) assistants and administrative staff;
 - (d) interpreters, translators and court reporters of the arbitration tribunal; and
 - (e) experts, as decided by the arbitration tribunal pursuant to Article 318 of this Agreement.
29. No later than five days before the date of a hearing, each Party shall deliver to the arbitration tribunal and to the other Party a list of names of the persons who will make oral arguments or presentations in the hearing on behalf of that Party and of other representatives and advisers who will be attending the hearing.

30. The arbitration tribunal shall conduct the hearing in the following manner, ensuring that the Parties are afforded equal time in both argument and rebuttal argument:

(a) Argument

(i) argument of the complaining Party; and

(ii) argument of the respondent Party.

(b) Rebuttal Argument

(i) reply of the complaining Party; and

(ii) counter-reply of the respondent Party.

31. The arbitration tribunal may direct questions to either Party at any time during the hearing.

32. The arbitration tribunal shall arrange for a recording of the hearing to be delivered to the Parties as soon as possible after the hearing.

33. Each Party may deliver a supplementary written submission concerning any matter that arose during the hearing within 10 days after the date of the hearing.

IX. Questions in writing

34. The arbitration tribunal may at any time during the proceedings submit questions in writing to one or both Parties. Any questions submitted to one Party shall be copied to the other Party.

35. Each Party shall provide the other Party with a copy of its response to the questions submitted by the arbitration tribunal. The other Party shall have an opportunity to provide comments in writing on that response within five days after the delivery of such copy.

X. Confidentiality

36. Each Party and the arbitration tribunal shall treat as confidential any information submitted by the other Party to the arbitration tribunal that the other Party has designated as confidential. When a Party submits to the arbitration tribunal a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information, which shall be disclosed to the public.
37. Nothing in these Rules of Procedure shall preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.
38. The arbitration tribunal shall hold the relevant parts of the session in private when the submission and arguments of a Party contain confidential information. The Parties shall maintain the confidentiality of the arbitration tribunal hearings when the hearings are held in closed session.

XI. Ex parte contacts

39. The arbitration tribunal shall not meet or communicate with a Party in the absence of the other Party.

40. An arbitrator shall not discuss any aspect of the subject matter of the proceedings with one Party or both Parties in the absence of the other arbitrators.
41. A Party shall not have any contact with an arbitrator. Any contact between a Party and a person who is under consideration for selection as an arbitrator shall be limited to issues relating to that person's availability and the appointment contract.

XII. Amicus curiae submissions

42. Unless the Parties agree otherwise within five days after the date of establishment of the arbitration tribunal, the arbitration tribunal may receive unsolicited written submissions from natural persons of a Party or legal persons established in the territory of a Party that are independent from the governments of the Parties (hereinafter referred to as "amicus curiae submissions"), provided that they:
- (a) are received by the arbitration tribunal within 10 days of the date of the establishment of the arbitration tribunal;
 - (b) are concise and in no case longer than 15 pages, including any annexes, typed at double space;
 - (c) are directly relevant to a factual or a legal issue under consideration by the arbitration tribunal;
 - (d) contain a description of the person making the submission, including for a natural person their nationality and for a legal person its place of establishment, the nature of its activities, its legal status, general objectives, its source of financing and any controlling entity;

- (e) specify the nature of the interest that the person has in the arbitration proceedings; and
- (f) are drafted in the working language determined in accordance with Rules 46 or 47.

- 43. The amicus curiae submissions shall be delivered to the Parties for comments. The Parties may submit comments, within 10 days after the date of their delivery to the Parties, to the arbitration tribunal.
- 44. The arbitration tribunal shall list in its report all the amicus curiae submissions it has received pursuant to Rule 42. The arbitration tribunal shall not be obliged to address in its report the arguments made in those submissions. If the arbitration tribunal addresses arguments made therein, it shall also take into account any comments made by the Parties pursuant to Rule 43.

XIII. Urgent cases

- 45. In cases of urgency as referred to in Article 310 of this Agreement, the arbitration tribunal, after consulting the Parties, shall adjust, as appropriate, the time periods set out in these Rules of Procedure. The arbitration tribunal shall notify the Parties of those adjustments.

XIV. Working language and translation

- 46. The language of proceedings before the arbitration tribunal shall be English.
- 47. Rulings, reports and decisions of the arbitration tribunal shall be issued in English.

48. If a Party submits a document in a language that is not English, it shall at the same time submit a translation thereof at its own costs.

XV. Other procedures

49. The time periods laid down in these Rules of Procedure shall be adjusted in line with the special time periods provided for the delivery of a ruling, report or decision by the arbitration tribunal pursuant to Articles 314 to 317 of this Agreement.

CODE OF CONDUCT FOR ARBITRATORS

I. Definitions

1. In this Code of Conduct:
 - (a) "arbitrator" means a member of an arbitration tribunal;
 - (b) "assistant" means an individual who, under the terms of appointment and under the direction and control of an arbitrator, conducts research or provides assistance to that arbitrator; and
 - (c) "candidate" means an individual who is under consideration for selection as an arbitrator pursuant to Article 306 or 319 of this Agreement.

II. Governing principles

2. In order to preserve the integrity and impartiality of the dispute settlement mechanism, candidates and arbitrators shall:
 - (a) get acquainted with this Code of Conduct;
 - (b) be independent and impartial;

- (c) avoid direct or indirect conflicts of interests;
 - (d) avoid impropriety or bias and the appearance of impropriety or bias;
 - (e) observe high standards of conduct;
 - (f) not take instructions from any organisation or government with regard to dispute settlement under this Agreement or any supplementing agreement; and
 - (g) not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
3. Arbitrators shall not directly, or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties.
 4. Arbitrators shall not use their position on the arbitration tribunal to advance any personal or private interests. Arbitrators shall avoid actions that may create the impression that others are in a special position to influence them.
 5. Arbitrators shall not allow past or present financial, business, professional, family or social relationships or responsibilities to influence their conduct or judgement.
 6. Arbitrators shall avoid entering into any relationship or acquiring any financial interest that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or bias.

III. Disclosure obligations

7. Prior to the acceptance of their appointment as arbitrators pursuant to Article 306 of this Agreement, candidates requested to serve as arbitrators shall receive a copy of this Code of Conduct and disclose to the Parties in writing any past or present interest, relationship or matter that is likely to affect their independence or impartiality or that might reasonably create an appearance of impropriety or bias. To that end, candidates shall make all reasonable efforts to become aware of any such interest, relationship or matter.
8. The disclosure obligation is a continuing duty which requires arbitrators to make at all times reasonable efforts to become aware of any interest, relationship or matter referred to in paragraph 7 that may arise during any stage of the proceedings, and to disclose it to the Parties in writing at the earliest time they become aware of it.
9. Candidates and arbitrators shall communicate any matter concerning actual or potential violations of this Code of Conduct to the Parties for their consideration.

IV. Duties of arbitrators

10. Upon acceptance of their appointment, arbitrators shall be available to perform and shall perform their duties thoroughly, expeditiously and with fairness and diligence throughout the proceedings.
11. Arbitrators shall consider only the issues raised in the proceedings and necessary for a decision or report. They shall not delegate this duty to any other person.

12. Assistants shall comply with the obligations set out for arbitrators in Parts II, III and VII of this Code of Conduct, *mutatis mutandis*. Arbitrators shall take all appropriate steps to ensure that their assistants are aware of, and comply with, those obligations.

V. Duties of potential candidates

13. Individuals included on the list established pursuant to Article 306 or 319 of this Agreement shall observe high standards of conduct and avoid impropriety or the appearance thereof. Individuals included on that list, or considered for inclusion, shall communicate to the Parties without delay any matter that may warrant consideration in this respect.

VI. Obligations of former arbitrators

14. Former arbitrators shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from any decision or ruling of the arbitration tribunal.
15. Former arbitrators shall comply with the obligations in Part VII of this Code of Conduct.

VII. Confidentiality

16. Arbitrators shall not disclose or use, at any time, any non-public information concerning the proceedings or acquired during the proceedings for which they have been appointed, except for the purposes of those proceedings. In particular, they shall not disclose or use any such information to gain personal advantage or advantage for others, or to adversely affect the interest of others.

17. Arbitrators shall not disclose a decision or report of the arbitration tribunal or parts thereof prior to its publication in accordance with Article 321 of this Agreement.
18. Arbitrators shall not, at any time, disclose the deliberations of an arbitration tribunal, or any arbitrator's view, nor make any statements on the proceedings for which they have been appointed or on the issues in dispute in the proceedings.

VIII. Expenses

19. Arbitrators shall keep a record and render a final account of the time devoted to the proceedings and of their expenses, as well as of the time and expenses of an assistant, if applicable.

PROTOCOL
ON SOCIAL SECURITY COORDINATION

TITLE I

GENERAL PROVISIONS

ARTICLE SSC.1

Definitions

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

- (a) "activity as an employed person" means any activity or equivalent situation treated as such for the purposes of the social security legislation of the United Kingdom, in respect of Gibraltar, where such activity or equivalent situation exists in Gibraltar, or the social security legislation of the Kingdom of Spain where such activity or equivalent situation exists in the Kingdom of Spain;
- (b) "activity as a self-employed person" means any activity or equivalent situation treated as such for the purposes of the social security legislation of the United Kingdom, in respect of Gibraltar, where such activity or equivalent situation exists in Gibraltar, or the social security legislation of the Kingdom of Spain where such activity or equivalent situation exists in the Kingdom of Spain;

- (c) "assisted reproduction services" means any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child;
- (d) "benefits in kind" means:
- (i) for the purposes of Chapter 1 of Title III, benefits in kind provided for under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care;
 - (ii) for the purposes of Chapter 2 of Title III, all benefits in kind relating to accidents at work and occupational diseases as defined in point (i) and provided for under the schemes of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain regarding accidents at work and occupational diseases;
- (e) "child-raising period" refers to any period which is credited under the pension legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively;
- (f) "civil servant" means a person considered to be such or treated as such by either the United Kingdom, in respect of Gibraltar, where the administration employing them is subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where the administration employing them is subject to the legislation of the Kingdom of Spain;

- (g) "competent authority" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout or in any part of the Kingdom of Spain or Gibraltar;
- (h) "competent institution" means:
- (i) the institution with which the person concerned is insured at the time of the application for benefit; or
 - (ii) the institution from which the person concerned is or would be entitled to benefits if that person or a member or members of their family resided in either the Kingdom of Spain, where the institution is situated in the Kingdom of Spain or Gibraltar, where the institution is situated in Gibraltar; or
 - (iii) the institution notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned; or
 - (iv) in the case of a scheme relating to an employer's obligations in respect of the benefits set out in Article SSC.4(1), either the employer or the insurer involved or, in default thereof, the body or authority notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned;
- (i) "death grant" means any one-off payment in the event of death, excluding the lump-sum benefits referred to in point (v);

- (j) "family benefit" means all benefits in kind or in cash intended to meet family expenses, excluding advances for maintenance payments and special childbirth and adoption allowances mentioned in Annex SSC-1;
- (k) "frontier worker" means any person covered by the definition in Article 291(2) and (3) of this Agreement;
- (l) "home base" means the place from where the crew member normally starts and ends a duty period or a series of duty periods, and where, under normal conditions, the operator/airline is not responsible for the accommodation of the crew member concerned;
- (m) "institution" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, the body or authority responsible for applying all or part of the legislation;
- (n) "institution of the place of residence" and "institution of the place of stay" mean, respectively, the institution which is competent to provide benefits in the place where the person concerned resides and the institution which is competent to provide benefits in the place where the person concerned is staying, in accordance with the legislation administered by that institution or, where no such institution exists, the institution designated by the relevant competent authority;

- (o) "insured person", in relation to the social security branches covered by Chapters 1 and 3 of Title III, means any person satisfying the conditions required under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is competent under Title II in order to have the right to benefits, taking into account the provisions of this Protocol;
- (p) "legislation" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, laws, regulations and other statutory provisions and all other implementing measures relating to the social security branches covered by Article SSC.4(1), but excludes contractual provisions other than those which serve to implement an insurance obligation arising from the laws and regulations referred to in this point or which have been the subject of a decision by the public authorities which makes them obligatory or extends their scope, provided that the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is concerned, makes a declaration to that effect, notified to the Specialised Committee on the Circulation of Persons. The Union shall publish such a declaration in the *Official Journal of the European Union*;
- (q) "long-term care benefit" means a benefit in kind or in cash the purpose of which is to address the care needs of a person who, on account of impairment, requires considerable assistance, including but not limited to assistance from another person or persons to carry out essential activities of daily living for an extended period of time in order to support their personal autonomy; this includes benefits granted for the same purpose to a person providing such assistance;

- (r) "member of the family" means:
- (i) (A) any person defined or recognised as a member of the family or designated as a member of the household by the legislation under which benefits are provided;
 - (B) with regard to benefits in kind pursuant to Chapter 1 of Title III, any person defined or recognised as a member of the family or designated as a member of the household by the legislation of the United Kingdom, in respect of Gibraltar, where that person resides in Gibraltar, or of the Kingdom of Spain, where that person resides in the Kingdom of Spain;
 - (ii) if the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is applicable under point (i), does not make a distinction between the members of the family and other persons to whom it is applicable, the spouse, minor children, and dependent children who have reached the age of majority shall be considered members of the family;
 - (iii) if, under the legislation which is applicable under points (i) and (ii), a person is considered a member of the family or member of the household only if that person lives in the same household as the insured person or pensioner, this condition shall be considered satisfied if the person in question is mainly dependent on the insured person or pensioner;
- (s) "pensioner" means a person who is in receipt of a statutory old-age, invalidity or survivors' benefit on behalf of the United Kingdom, in respect of Gibraltar, or on behalf of the Kingdom of Spain following the pursuance of an employed or self-employed activity in Gibraltar or the Kingdom of Spain;

- (t) "period of employment" or "period of self-employment" mean periods so defined or recognised by the legislation under which they were completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of employment or to periods of self-employment;
- (u) "period of insurance" means periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of insurance;
- (v) "pension" covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement of contributions and, subject to the provisions of Title III, revaluation increases or supplementary allowances;
- (w) "pre-retirement benefit" means all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the age at which they qualify for an old-age pension or an early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the Kingdom of Spain or Gibraltar, whichever is competent; "early old-age benefit" means a benefit provided before the normal pension entitlement age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;
- (x) "registered office or place of business" means the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out;

- (y) "residence" means the place where a person legally resides;
- (z) "special non-contributory cash benefits" means those non-contributory cash benefits which:
- (i) are intended to provide either:
 - (A) supplementary, substitute or ancillary cover against the risks covered by the branches of social security referred to in Article SSC.4(1), and which guarantee the persons concerned a minimum subsistence income having regard to the economic and social situation in the Kingdom of Spain or Gibraltar, whichever is concerned; or
 - (B) solely specific protection for the disabled, closely linked to the said person's social environment in the Kingdom of Spain or Gibraltar, whichever is concerned, and
 - (ii) are financed exclusively from compulsory taxation intended to cover general public expenditure and the conditions for providing and for calculating the benefits are not dependent on any contribution in respect of the beneficiary. However, benefits provided to supplement a contributory benefit shall not be considered to be contributory benefits for this reason alone;
- (aa) "special scheme for civil servants" means any social security scheme which is different from the general social security scheme applicable to employed persons in the Kingdom of Spain or Gibraltar, whichever is concerned, and to which all, or certain categories of, civil servants are directly subject;
- (bb) "stay" means temporary residence.

ARTICLE SSC.2

Communications and notifications

The procedure provided for in Article 6(2) and (3) of this Agreement shall not apply to formal communications and decisions to be notified, made by or addressed to the competent authorities of the United Kingdom, in respect of Gibraltar, pursuant to this Protocol.

ARTICLE SSC.3

Persons covered

This Protocol applies to:

- (1) Union citizens legally residing in the Kingdom of Spain who are or were subject to the legislation of the United Kingdom, in respect of Gibraltar, following the pursuance of an activity as a frontier worker in Gibraltar, as well as their family members and survivors residing in the Kingdom of Spain;
- (2) United Kingdom nationals legally residing in Gibraltar who are or were subject to the legislation of the Kingdom of Spain following the pursuance of an activity as a frontier worker in the Kingdom of Spain, as well as their family members and survivors residing in Gibraltar;

- (3) persons referred to in Article 295 of this Agreement who pursue an activity as employed persons for an employer which normally carries out its activities in the Kingdom of Spain and Gibraltar respectively and who are posted for a limited period by that employer to Gibraltar and the Kingdom of Spain, respectively, to supply services that are both locally produced and consumed at the contiguous frontier zone on that employer's behalf and who return at least once a week to the Kingdom of Spain or Gibraltar, respectively.

ARTICLE SSC.4

Matters covered

1. This Protocol applies to the following branches of social security:
 - (a) sickness benefits;
 - (b) maternity and equivalent paternity benefits;
 - (c) invalidity benefits;
 - (d) old-age benefits;
 - (e) survivors' benefits;

- (f) benefits in respect of accidents at work and occupational diseases;
- (g) death grants;
- (h) unemployment benefits;
- (i) pre-retirement benefits; and
- (j) family benefits.

2. Unless otherwise provided for in Annex SSC-4, this Protocol applies to general and special social security schemes, whether contributory or non-contributory, and to schemes relating to the obligations of an employer or ship-owner.

3. The provisions of Title III shall not, however, affect the legislative provisions of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain concerning a ship-owner's obligations.

4. This Protocol does not apply to:

- (a) special non-contributory cash benefits;
- (b) long-term care benefits;
- (c) social and medical assistance;

- (d) benefits in relation to which the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain assumes the liability for damages to persons and provides for compensation, such as those for victims of war and military action or their consequences; victims of crime, assassination or terrorist acts; victims of damage occasioned by agents of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in the course of their duties; or victims who have suffered a disadvantage for political or religious reasons or for reasons of descent; or
- (e) assisted reproduction services.

ARTICLE SSC.5

Equality of treatment

Unless otherwise provided for by this Protocol, persons to whom this Protocol applies shall enjoy, as regards the branches of social security covered by Article SSC.4(1), the same benefits and be subject to the same obligations under the legislation applicable in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain as the nationals thereof.

ARTICLE SSC.6

Equal treatment of benefits, income, facts or events

Unless otherwise provided for in this Protocol, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure the application of the principle of equal treatment of benefits, income, facts or events in the following manner:

- (a) where, under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the receipt of social security benefits and other income has certain legal effects, the relevant provisions of that legislation shall also apply to the receipt of equivalent benefits acquired under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or to income acquired in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent;
- (b) where, under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, legal effects are attributed to the occurrence of certain facts or events, the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain shall take account of like facts or events that have occurred in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, as though they had taken place in the territory within the remit of the competent institution.

ARTICLE SSC.7

Aggregation of periods

Unless otherwise provided for in this Protocol, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall, to the extent necessary, take into account periods of insurance or employment or self-employment completed under the legislation of the Kingdom of Spain, or of the United Kingdom, in respect of Gibraltar, as the case may be, as though they were periods completed under the legislation which it applies, where its legislation makes conditional upon the completion of periods of insurance or employment or self-employment:

- (a) the acquisition, retention, duration or recovery of the right to benefits;
- (b) the coverage by legislation; or
- (c) the access to or the exemption from compulsory, optional continued or voluntary insurance.

ARTICLE SSC.8

Waiving of residence rules

Unless otherwise provided for in this Protocol, cash benefits payable under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain or under this Protocol shall not be subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of their family reside in Gibraltar, where the institution responsible for providing benefits is situated in the Kingdom of Spain, or in the Kingdom of Spain, where the institution responsible for providing benefits is situated in Gibraltar.

ARTICLE SSC.9

Prevention of overlapping of benefits

Unless otherwise provided, this Protocol shall neither confer nor maintain the right to several benefits of the same kind for one and the same period of compulsory insurance.

TITLE II

DETERMINATION OF THE LEGISLATION APPLICABLE

ARTICLE SSC.10

General rules

1. Persons to whom this Protocol applies shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain. Such legislation shall be determined in accordance with this Title.
2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.

3. Subject to Articles SSC.11, SSC.13 and SSC.14:

- (a) a person pursuing an activity as an employed or self-employed person in Gibraltar shall be subject to the legislation of the United Kingdom, in respect of Gibraltar; a person pursuing an activity as an employed or self-employed person in the Kingdom of Spain shall be subject to the legislation of the Kingdom of Spain;
- (b) a civil servant shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, where the administration employing them is subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where the administration employing them is subject to the legislation of the Kingdom of Spain;
- (c) a person receiving unemployment benefits under the legislation of the United Kingdom, in respect of Gibraltar, shall be subject to the legislation of the United Kingdom, in respect of Gibraltar; a person receiving unemployment benefits under the legislation of the Kingdom of Spain shall be subject to the legislation of the Kingdom of Spain;
- (d) a pensioner who is residing in Gibraltar or the Kingdom of Spain shall be subject to the legislation of the United Kingdom, in respect of Gibraltar, where that person resides in Gibraltar, or of the Kingdom of Spain, where that person resides in the Kingdom of Spain, without prejudice to other provisions of this Protocol guaranteeing them benefits under the other legislation.

4. For the purposes of this Title, a person pursuing an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of the United Kingdom, in respect of Gibraltar, shall be deemed to be pursuing that activity in Gibraltar; a person pursuing an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of the Kingdom of Spain shall be deemed to be pursuing that activity in the Kingdom of Spain. However, a person employed on board a vessel flying the flag of the United Kingdom, in respect of Gibraltar, and remunerated for such an activity by an undertaking or a person whose registered office or place of business is in the Kingdom of Spain shall be subject to the legislation of the Kingdom of Spain if that person resides in the Kingdom of Spain; a person employed on board a vessel flying the flag of the Kingdom of Spain and remunerated for such activity by an undertaking or a person whose registered office or place of business is in Gibraltar shall be subject to the legislation of the United Kingdom, in respect of Gibraltar, if that person resides in Gibraltar. The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.
5. For the purposes of this Title, a person pursuing an activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be pursuing that activity in the Kingdom of Spain, where the home base is located in the Kingdom of Spain, or in Gibraltar, where the home base is located in Gibraltar.

ARTICLE SSC.11

Detached frontier workers

1. A Union citizen to whom this Protocol applies, who pursues an activity as an employed frontier worker in Gibraltar, for an employer which normally carries out its activities there, and who is sent by that employer to the Kingdom of Spain, to perform work on that employer's behalf, shall continue to be subject to the legislation of the United Kingdom, in respect of Gibraltar, provided that:

- (a) the anticipated duration of such work does not exceed 24 months; and
- (b) that person is not sent to replace another detached worker.

2. Paragraph 1 shall apply *mutatis mutandis* to a United Kingdom national to whom this Protocol applies, who pursues an activity as an employed frontier worker in the Kingdom of Spain, for an employer which normally carries out its activities there, and who is sent by that employer to Gibraltar, to perform work on that employer's behalf.

3. A Union citizen to whom this Protocol applies, who normally pursues an activity as a self-employed frontier worker in Gibraltar and who goes to pursue a similar activity in the Kingdom of Spain shall continue to be subject to the legislation of the United Kingdom, in respect of Gibraltar, provided that the anticipated duration of such activity does not exceed 24 months.

4. Paragraph 3 shall apply *mutatis mutandis* to a United Kingdom national to whom this Protocol applies, who normally pursues an activity as a self-employed frontier worker in the Kingdom of Spain and who goes to pursue a similar activity in Gibraltar.

ARTICLE SSC.12

Posted workers

A person who pursues an activity as an employed person in the Kingdom of Spain or Gibraltar for an employer which normally carries out its activities there and who is sent by that employer to Gibraltar, where the employer normally carries out its activities in the Kingdom of Spain, or to the Kingdom of Spain, where the employer normally carries out its activities in Gibraltar, to perform work on that employer's behalf shall continue to be subject to the legislation of the Kingdom of Spain, where the employer normally carries out its activities in the Kingdom of Spain, or of the United Kingdom, in respect of Gibraltar, where the employer normally carries out its activities in Gibraltar, provided that:

- (a) the duration of such work does not exceed 24 months;
- (b) that person is not sent to replace another person; and
- (c) that person is resident in the Kingdom of Spain and returns at least once per week to the Kingdom of Spain if the person is posted to Gibraltar, or is resident in Gibraltar and returns at least once per week to Gibraltar if the person is posted to the Kingdom of Spain.

ARTICLE SSC.13

Pursuit of activities in the Kingdom of Spain and Gibraltar

1. For persons to whom this Protocol applies who, in addition to their activity as frontier workers, also pursue an activity in their place of residence, the following paragraphs shall apply.
2. A person who normally pursues an activity as an employed person in the Kingdom of Spain and Gibraltar shall be subject to:
 - (a) the legislation of the place of residence if that person pursues a substantial part of their activity there; or
 - (b) if that person does not pursue a substantial part of their activity in the place of residence:
 - (i) the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where the registered office or place of business of the undertaking or employer is situated if that person is employed by one undertaking or employer; or
 - (ii) the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where the registered office or place of business of the undertakings or employers is situated if that person is employed by two or more undertakings or employers which have their registered office or place of business only in the Kingdom of Spain or only in Gibraltar; or

- (iii) the legislation of the United Kingdom, in respect of Gibraltar, if the person resides in the Kingdom of Spain, or of the Kingdom of Spain if the person resides in Gibraltar, if that person is employed by two or more undertakings or employers, which have their registered office or place of business in the Kingdom of Spain and Gibraltar; or
- (iv) the legislation of the place of residence if that person is employed by one or more undertakings or employers, at least one of which has their registered office or place of business outside the Kingdom of Spain and Gibraltar.

3. A person who normally pursues an activity as a self-employed person in the Kingdom of Spain and Gibraltar shall be subject to:

- (a) the legislation of the place of residence if that person pursues a substantial part of their activity there; or
- (b) the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where the centre of interest of their activities is situated, if that person does not pursue a substantial part of their activity in their place of residence.

4. A person who normally pursues an activity as an employed person and an activity as a self-employed person in the Kingdom of Spain and Gibraltar shall be subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where that person pursues an activity as an employed person, or, if that person pursues such an activity in the Kingdom of Spain and Gibraltar, to the legislation determined in accordance with paragraph 2.

5. A person who is employed as a civil servant by the Kingdom of Spain and who pursues an activity as an employed or self-employed person in Gibraltar or vice versa shall be subject to the legislation of the United Kingdom, in respect of Gibraltar, where the administration employing them is subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain where the administration employing them is subject to the legislation of the Kingdom of Spain.

6. Persons referred to in paragraphs 2 to 5 shall be treated, for the purposes of the legislation determined in accordance with these provisions, as though they were pursuing all their activities as employed or self-employed persons and were receiving all their income in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, whichever is concerned.

ARTICLE SSC.14

Voluntary insurance or optional continued insurance

1. Articles SSC.10, SSC.11 and SSC.13 do not apply to voluntary insurance or to optional continued insurance unless, in respect of one of the branches referred to in Article SSC.4, only a voluntary scheme of insurance exists in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain.

2. Where, by virtue of the legislation of the United Kingdom, in respect of Gibraltar, the person concerned is subject to compulsory insurance in the United Kingdom, in respect of Gibraltar, that person may not be subject to a voluntary insurance scheme or an optional continued insurance scheme in the Kingdom of Spain. Where, by virtue of the legislation of the Kingdom of Spain, the person concerned is subject to compulsory insurance in the Kingdom of Spain, that person may not be subject to a voluntary insurance scheme or an optional continued insurance scheme in the United Kingdom, in respect of Gibraltar. In all other cases in which, for a given branch, there is a choice between several voluntary insurance schemes or optional continued insurance schemes, the person concerned shall join only the scheme of their choice.

3. In respect of invalidity, old-age and survivors' benefits, the person concerned may join the voluntary or optional continued insurance scheme of the United Kingdom, in respect of Gibraltar, even if that person is compulsorily subject to the legislation of the Kingdom of Spain, provided that that person has been subject, at some stage in their career, to the legislation of the United Kingdom, in respect of Gibraltar, because or as a consequence of an activity as an employed or self-employed person and if such overlapping is explicitly or implicitly allowed under the legislation of the United Kingdom, in respect of Gibraltar. Likewise, in respect of invalidity, old-age and survivors' benefits, the person concerned may join the voluntary or optional continued insurance scheme of the Kingdom of Spain, even if that person is compulsorily subject to the legislation of the United Kingdom, in respect of Gibraltar, provided that that person has been subject, at some stage in their career, to the legislation of the Kingdom of Spain, because or as a consequence of an activity as an employed or self-employed person and if such overlapping is explicitly or implicitly allowed under the legislation of the Kingdom of Spain.

4. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain makes admission to voluntary insurance or optional continued insurance conditional upon residence there or upon previous activity as an employed or self-employed person, point (b) of Article SSC.6 shall apply only to persons who have been subject, at some earlier stage, to the legislation concerned, on the basis of an activity as an employed or self-employed person.

ARTICLE SSC.15

Obligations of the employer

1. An employer of a frontier worker who is subject to the legislation of the United Kingdom, in respect of Gibraltar, or to the legislation of the Kingdom of Spain shall fulfil all the obligations laid down by the legislation applicable to its employees, in particular the obligation to pay the contributions provided for by that legislation, as if it had its registered office or place of business in the Kingdom of Spain or in Gibraltar, respectively.

2. An employer of a frontier worker who is subject to the legislation of the United Kingdom, in respect of Gibraltar, where the employer does not have a place of business in Gibraltar, or to the legislation of the Kingdom of Spain, where the employer does not have a place of business in the Kingdom of Spain, may agree with the frontier worker that the latter may fulfil the employer's obligations on its behalf as regards the payment of contributions, without prejudice to the employer's underlying obligations and the employer shall send notice of such an arrangement to the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively.

TITLE III

SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1

SICKNESS, MATERNITY AND EQUIVALENT PATERNITY BENEFITS

SECTION 1

INSURED PERSONS AND MEMBERS OF THEIR FAMILIES EXCEPT PENSIONERS AND MEMBERS OF THEIR FAMILIES

ARTICLE SSC.16

Residence in Gibraltar, where the Kingdom of Spain is competent,
or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar is competent

Frontier workers and detached frontier workers who are subject to the legislation applicable in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain and who reside, respectively, in the Kingdom of Spain or Gibraltar, as well as the members of their family, are entitled to benefits in kind in the place of residence provided, on behalf of the competent institution, by the institution of the place of residence, in accordance with the legislation of the place of residence, as though that person were insured under that legislation.

ARTICLE SSC.17

Stay in the place of employment or self-employment

1. Frontier workers, detached frontier workers and posted workers shall be entitled to benefits in kind while staying in the place of employment or self-employment. In the case of frontier workers and detached frontier workers, these benefits in kind shall be provided by the competent institution and at its own expense, in accordance with the provisions of the legislation it applies, as though the persons concerned resided there.
2. In the case of posted workers, these benefits in kind shall be those which become necessary on medical grounds during their stay, taking into account the nature of the benefits and expected length of the stay. These benefits in kind shall be provided on behalf of the competent institution, by the institution of the place of stay, in accordance with the legislation that it applies, as though the person were insured under the said legislation.
3. Paragraph 2 does not apply where the person concerned travelled to the Kingdom of Spain or Gibraltar, as the case may be, with the purpose of receiving the benefits in kind.

ARTICLE SSC.18

Cash benefits

1. Frontier workers and posted workers and the members of their family shall be entitled to cash benefits provided by the competent institution in accordance with the legislation it applies. By agreement between the competent institution and the institution of the place of residence or stay, such benefits may, however, be provided by the institution of the place of residence or stay at the expense of the competent institution in accordance with the legislation which the competent institution applies.
2. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the calculation of cash benefits shall be based on an average income or on an average contribution basis, the competent institution shall determine such average income or average contribution basis exclusively by references to the incomes confirmed as having been paid, or to the contribution bases applied during the periods completed under the said legislation.
3. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the calculation of cash benefits shall be based on standard income, the competent institution shall take into account exclusively the standard income or, where appropriate, the average of standard incomes for the periods completed under the said legislation.
4. Paragraphs 2 and 3 apply *mutatis mutandis* to cases where the legislation applied by the competent institution lays down a specific reference period which corresponds in the case in question either wholly or partly to the periods which the person concerned has completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSC.19

Pension claimants

1. An insured person who, on making a claim for a pension, or during the investigation thereof, ceases to be entitled to benefits in kind under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall remain entitled to benefits in kind in the place of residence, provided that that person resides in Gibraltar or in the Kingdom of Spain, as the case may be, and provided that the pension claimant satisfies the insurance conditions of the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, as referred to in paragraph 2. The right to benefits in kind in the place of residence shall also apply to the members of the family of the pension claimant.
2. The benefits in kind shall be chargeable to the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain which, in the event of a pension being awarded, would become competent under Articles SSC.20 and SSC.21.

SECTION 2

SPECIAL PROVISIONS FOR PENSIONERS AND THE MEMBERS OF THEIR FAMILY

ARTICLE SSC.20

Right to benefits in kind under the legislation of the place of residence

A person who receives a pension or pensions under the legislation applicable in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain and who is entitled to benefits in kind in the place of residence shall, with the members of their family, receive such benefits in kind from and at the expense of the institution of the place of residence, as though that person were a pensioner whose pension was payable solely under the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, respectively.

ARTICLE SSC.21

No right to benefits in kind under the legislation of the place of residence

1. A person who:
 - (a) resides in the Kingdom of Spain;
 - (b) receives a pension or pensions under the legislation of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain; and

(c) is not entitled to benefits in kind under the legislation of the Kingdom of Spain;

shall nevertheless receive such benefits for themselves and the members of their family, insofar as the pensioner would be entitled to them under the legislation of the United Kingdom, in respect of Gibraltar, if that person resided in Gibraltar. The benefits in kind shall be provided at the expense of the institution of Gibraltar by the institution of the place of residence, as though the person concerned were entitled to a pension and entitled to benefits in kind under the legislation of the place of residence.

2. A person who:

(a) resides in Gibraltar;

(b) receives a pension or pensions under the legislation of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain; and

(c) is not entitled to benefits in kind under the legislation of the United Kingdom, in respect of Gibraltar

shall nevertheless receive such benefits for themselves and the members of their family, insofar as the pensioner would be entitled to them under the legislation of the Kingdom of Spain, if that person resided in the Kingdom of Spain. The benefits in kind shall be provided at the expense of the institution of the Kingdom of Spain by the institution of the place of residence, as though the person concerned were entitled to a pension and entitled to benefits in kind under the legislation of the place of residence.

ARTICLE SSC.22

Continuation of treatment

A frontier worker who has retired because of old age or invalidity is entitled in the event of sickness to continue to receive benefits in kind in Gibraltar, if that person last pursued their activity as an employed or self-employed person there, or in the Kingdom of Spain, if that person last pursued their activity as an employed or self-employed person there, insofar as this is a continuation of treatment which began in Gibraltar or the Kingdom of Spain, respectively. "Continuation of treatment" means the continued investigation, diagnosis and treatment of an illness for its entire duration.

ARTICLE SSC.23

Cash benefits for pensioners

1. Cash benefits shall be paid to a person receiving a pension or pensions under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is applied by the competent institution of the place in which is situated the competent institution responsible for the cost of benefits in kind provided to the pensioner in their place of residence. Article SSC.18 applies *mutatis mutandis*.
2. Paragraph 1 also applies to the members of a pensioner's family.

ARTICLE SSC.24

Contributions

The institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which is responsible under the legislation it applies for making deductions in respect of contributions for sickness, maternity and equivalent paternity benefits, may request and recover such deductions, calculated in accordance with the legislation it applies, only to the extent that the cost of the benefits pursuant to Articles SSC.20 and SSC.21 is to be borne by an institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain.

SECTION 3

COMMON PROVISIONS

ARTICLE SSC.25

General provisions

Articles SSC.21 to SSC.24 shall not apply to a pensioner or the members of the pensioner's family who are entitled to benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain on the basis of an activity as an employed or self-employed person.

ARTICLE SSC.26

Prioritising of the right to benefits in kind – special rule for the right of members of the family to benefits in the place of residence

1. Unless otherwise provided for by paragraphs 2 and 3, where a member of the family has an independent right to benefits in kind based on the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or on this Chapter, such right shall take priority over a derivative right to benefits in kind for members of the family.
2. Unless otherwise provided for by paragraph 3, where the independent right in the place of residence exists directly and solely on the basis of the residence of the person concerned in that place, a derivative right to benefits in kind shall take priority over the independent right.
3. Notwithstanding paragraphs 1 and 2, benefits in kind shall be provided to the members of the family of an insured person at the expense of the competent institution in the place in which they reside, where:
 - (a) those members of the family reside in Gibraltar or the Kingdom of Spain and where under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, the right to benefits in kind is not subject to conditions of insurance or activity as an employed or self-employed person; and
 - (b) the spouse or the person caring for the children of the insured person pursues an activity as an employed or self-employed person in Gibraltar or the Kingdom of Spain, or receives a pension from either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, respectively, on the basis of an activity as an employed or self-employed person.

ARTICLE SSC.27

Reimbursements between institutions

1. The benefits in kind provided by the institution of the United Kingdom, in respect of Gibraltar, on behalf of the institution of the Kingdom of Spain, or of the Kingdom of Spain on behalf of the institution of the United Kingdom, in respect of Gibraltar, under this Chapter shall give rise to full reimbursement.
2. The reimbursements referred to in paragraph 1 shall be determined and effected in accordance with an administrative arrangement agreed upon between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.
3. The United Kingdom, in respect of Gibraltar, or the Kingdom of Spain and their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between them.

CHAPTER 2

BENEFITS IN RESPECT OF ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

ARTICLE SSC.28

Right to benefits in kind and in cash

1. Without prejudice to any more favourable provisions in paragraphs 2 and 3 of this Article, Articles SSC.16 and SSC.17 also apply to benefits relating to accidents at work or occupational diseases.
2. A person who has sustained an accident at work or has contracted an occupational disease and who resides or stays in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, shall be entitled to the special benefits in kind of the scheme covering accidents at work and occupational diseases provided, on behalf of the competent institution, by the institution of the place of residence or stay in accordance with the legislation which it applies, as though that person were insured under that legislation.
3. Article SSC.18 also applies to benefits falling within this Chapter.

ARTICLE SSC.29

Costs of transport

1. The competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, depending on which legislation provides for meeting the costs of transporting a person who has sustained an accident at work or is suffering from an occupational disease, either to their place of residence or to a hospital, shall meet such costs to the corresponding place where the person resides.
2. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, depending on which legislation provides for meeting the costs of transporting the body of a person killed in an accident at work to the place of burial shall, in accordance with the legislation it applies, meet such costs to the corresponding place where the person was residing at the time of the accident.

ARTICLE SSC.30

Benefits for an occupational disease where the person suffering from such a disease has been exposed to the same risk in the Kingdom of Spain and Gibraltar

When a person who has contracted an occupational disease has, under the legislation applicable in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, pursued an activity which by its nature is likely to cause the said disease, the benefits that that person or their survivors may claim shall be provided exclusively under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is the last where such conditions are satisfied.

ARTICLE SSC.31

Aggravation of an occupational disease

In the event of aggravation of an occupational disease for which a person suffering from such a disease has received or is receiving benefits under the legislation applicable in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, the following rules shall apply:

- (a) if the person concerned, while in receipt of benefits, has not pursued, under the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, an activity as an employed or self-employed person likely to cause or aggravate the disease in question, the competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the first where the person has received benefits, shall bear the cost of the benefits under the legislation it applies, taking into account the aggravation;
- (b) if the person concerned, while in receipt of benefits, has pursued such an activity under the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, the competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the first where the person has received benefits, shall bear the cost of the benefits under the legislation it applies without taking the aggravation into account. The competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the second where the person has received benefits, shall grant a supplement to the person concerned, the amount of which shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation under the legislation it applies, if the disease in question had occurred under the legislation applied by that institution;

- (c) the rules concerning reduction, suspension or withdrawal laid down by the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, shall not be invoked against persons receiving benefits provided by institution of the other in accordance with point (b).

ARTICLE SSC.32

Rules for taking into account the special features of the legislation concerned

1. If there is no insurance against accidents at work or occupational disease in the place, where the person concerned resides or stays, or if such insurance exists but there is no institution responsible for providing benefits in kind, those benefits shall be provided by the institution of the place of residence or stay responsible for providing benefits in kind in the event of sickness.
2. If there is no insurance against accidents at work or occupational disease in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, whichever is competent, the provisions of this Chapter concerning benefits in kind shall nevertheless be applied to a person who is entitled to those benefits in the event of sickness, maternity or equivalent paternity under the legislation of the United Kingdom, in respect of Gibraltar, if that person sustains an accident at work or suffers from an occupational disease during residence in the Kingdom of Spain, or under the legislation of the Kingdom of Spain, if that person sustains an accident at work or suffers from an occupational disease during residence in Gibraltar. Costs shall be borne by the institution that is competent for the benefits in kind under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is competent.

3. Article SSC.6 applies to the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain as regards the equivalence of accidents at work and occupational diseases which either have occurred or have been confirmed subsequently under the legislation applicable in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, respectively, when assessing the degree of incapacity, the right to benefits or the amount thereof, on condition that:

- (a) no compensation is due in respect of an accident at work or an occupational disease which had occurred or had been confirmed previously under the legislation it applies; and
- (b) no compensation is due in respect of an accident at work or an occupational disease which had occurred or had been confirmed subsequently, under the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, depending on where the accident at work or the occupational disease had occurred or had been confirmed.

ARTICLE SSC.33

Reimbursements between institutions

1. Article SSC.28 also applies to benefits falling within this Chapter, and reimbursement shall be made on the basis of actual costs.
2. The United Kingdom, in respect of Gibraltar, or the Kingdom of Spain or their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between them.

CHAPTER 3

DEATH GRANTS

ARTICLE SSC.34

Rights to grants where death occurs in, or where the person entitled resides in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent

1. When an insured person or a member of their family dies in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, the death shall be deemed to have occurred where the competent institution is located.
2. The competent institution shall be obliged to provide death grants payable under the legislation it applies, even if the person entitled resides in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent or in Gibraltar, where the Kingdom of Spain is competent.
3. Paragraphs 1 and 2 shall also apply when the death is the result of an accident at work or an occupational disease.

ARTICLE SSC.35

Provision of benefits in the event of the death of a pensioner

1. In the event of the death of a pensioner who was entitled to one pension or more pensions under the legislation applicable in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain when that pensioner was residing in the Kingdom of Spain, when the institution responsible for the cost of benefits in kind is in Gibraltar and residing in Gibraltar, when the institution responsible for the cost of benefits in kind is in the Kingdom of Spain, the death grants payable under the legislation administered by that institution shall be provided at its own expense as though the pensioner had been residing at the time of their death in the place where that institution is situated.
2. Paragraph 1 shall apply *mutatis mutandis* to the members of the family of a pensioner.

CHAPTER 4

INVALIDITY BENEFITS

ARTICLE SSC.36

Persons subject only to type A legislation

1. For the purposes of this Chapter, "type A legislation" means legislation under which the amount of invalidity benefits is independent of the duration of the periods of insurance, and "type B legislation" means any other legislation.
2. A person who has completed periods of insurance exclusively under type A legislation shall be entitled to benefits only from the institution of the place whose legislation was applicable at the time when the incapacity for work followed by invalidity occurred, taking into account, where appropriate, Article SSC.37 and shall receive such benefits in accordance with that legislation.
3. If the legislation referred to in paragraph 2 contains rules for reduction, suspension or withdrawal of invalidity benefits in the case of overlapping with other income or with benefits of a different kind within the meaning of Articles SSC.46(2), SSC.46(3) and SSC.48(3) shall apply *mutatis mutandis*.

ARTICLE SSC.37

Special provisions on aggregation of periods

The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of periods of insurance shall, where necessary, apply Article SSC.44(1).

ARTICLE SSC.38

Persons subject either only to type B legislation or to type A and B legislation

1. A person who has been successively or alternately subject to type A and type B legislation shall be entitled to benefits under Chapter 5, which shall apply *mutatis mutandis* taking into account paragraph 3.
2. If the person concerned has been previously subject to a type B legislation and suffers incapacity for work leading to invalidity while subject to a type A legislation, that person shall receive benefits according to Article SSC.36 under type A legislation, provided that:
 - that person satisfies the conditions of that legislation exclusively, or of others of the same type taking into account, where appropriate Article SSC.37 but without having recourse to periods of insurance or residence completed under a type B legislation; and
 - that person does not assert any claims to old-age benefits, taking into account Article SSC.43.

3. A decision taken by an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain concerning the degree of invalidity of a claimant shall be binding on the institution of the Kingdom of Spain, or of the United Kingdom, in respect of Gibraltar, respectively.

ARTICLE SSC.39

Aggravation of invalidity

1. In the case of aggravation of an invalidity for which a person is receiving benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the following provisions shall apply, taking the aggravation into account:

- (a) the benefits shall be provided in accordance with Chapter 5, applied *mutatis mutandis*;
- (b) however, where the person concerned has been subject to type A legislation and since receiving benefit has not been subject to the type B legislation, the benefit shall be provided in accordance with Article SSC.36(2).

2. If the total amount of the benefit or benefits payable under paragraph 1 is lower than the amount of the benefit which the person concerned was receiving at the expense of the institution previously competent for payment, that institution shall pay them a supplement equal to the difference between the two amounts.

3. If the person concerned is not entitled to benefits at the expense of an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the previously competent institution shall provide the benefits in accordance with the legislation it applies, taking into account the aggravation and, where appropriate, Article SSC.37.

ARTICLE SSC.40

Conversion of invalidity benefits into old-age benefits

1. Invalidity benefits shall be converted into old-age benefits, where appropriate, under the conditions laid down by the legislation under which they are provided and in accordance with Chapter 5.

2. Where a person receiving invalidity benefits can establish a claim to old-age benefits under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain in accordance with Article SSC.47, any institution which is responsible for providing invalidity benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall continue to provide such a person with the invalidity benefits to which that person is entitled under the legislation it applies until paragraph 1 becomes applicable in respect of that institution, or otherwise for as long as the person concerned satisfies the conditions for such benefits.

3. Where invalidity benefits provided under the legislation applicable, in accordance with Article SSC.36, are converted into old-age benefits and where the person concerned does not yet satisfy the conditions laid down by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain for receiving those benefits, the person concerned shall receive, from the United Kingdom, in respect of Gibraltar, and/or the Kingdom of Spain invalidity benefits from the date of the conversion.

Those invalidity benefits shall be provided in accordance with Chapter 5 as if that Chapter had been applicable at the time when the incapacity for work leading to invalidity occurred, until the person concerned satisfies the qualifying conditions for old-age benefits laid down by the national legislation concerned or, where such conversion is not provided for, for as long as that person is entitled to invalidity benefits under the latter legislation.

4. The invalidity benefits provided under Article SSC.36 shall be recalculated in accordance with Chapter 5 as soon as the beneficiary satisfies the qualifying conditions for invalidity benefits laid down by a type B legislation, or as soon as that person receives old-age benefits.

ARTICLE SSC.41

Special provisions for civil servants

Articles SSC.7, SSC.36, SSC.38, SSC.39, SSC.40 and SSC.53(2) and (3) shall apply *mutatis mutandis* to persons covered by a special scheme for civil servants.

CHAPTER 5

OLD-AGE AND SURVIVORS' PENSIONS

ARTICLE SSC.42

Taking into account child-raising periods

1. Where, under the legislation of the United Kingdom, in respect of Gibraltar, when the institution which is competent under Title II is the United Kingdom, in respect of Gibraltar, or where, under the legislation of the Kingdom of Spain, when the institution which is competent under Title II is the Kingdom of Spain, no child-raising period is taken into account, the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain whose legislation, according to Title II, was applicable to the person concerned on the grounds that the person was pursuing an activity as an employed or self-employed worker at the date when, under that legislation, the child-raising period started to be taken into account for the child concerned, shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory.
2. Paragraph 1 shall not apply if the person concerned is, or becomes, subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain due to the pursuit of an employed or self-employed activity.

ARTICLE SSC.43

General provisions

1. The competent institutions shall determine entitlement to benefit, under the legislation of either the United Kingdom, in respect of Gibraltar, where the person concerned has been subject to the legislation of the United Kingdom, in respect of Gibraltar, when a request for award has been submitted, or the Kingdom of Spain, where the person concerned has been subject to Spanish legislation when a request for award has been submitted, or both, unless the person concerned expressly requests deferment of the award of old-age benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain or both.
2. If at a given moment the person concerned does not satisfy, or no longer satisfies, the conditions laid down by the legislation of either the United Kingdom, in respect of Gibraltar, where that person has been subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where that person has been subject to the legislation of the Kingdom of Spain, the institutions applying legislation the conditions of which have been satisfied shall not take into account, when performing the calculation in accordance with point (a) or (b) of Article SSC.45(1), the periods completed under the legislation the conditions of which have not been satisfied, or are no longer satisfied, where this gives rise to a lower amount of benefit.
3. Paragraph 2 shall apply *mutatis mutandis* when the person concerned has expressly requested deferment of the award of old-age benefits.

4. A new calculation shall be performed automatically as and when the conditions to be fulfilled under the other legislation are satisfied or when a person requests the award of an old-age benefit deferred in accordance with paragraph 1, unless the periods completed under the other legislation have already been taken into account by virtue of paragraph 2 or 3.

ARTICLE SSC.44

Special provisions on aggregation of periods

1. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain makes the granting of certain benefits conditional upon the periods of insurance having been completed only in a specific activity as an employed or self-employed person or in an occupation which is subject to a special scheme for employed or self-employed persons, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall take into account periods completed under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, only if completed under a corresponding scheme or, failing that, in the same occupation, or, where appropriate, in the same activity as an employed or self-employed person.

If, account having been taken of the periods thus completed, the person concerned does not satisfy the conditions for receipt of the benefits of a special scheme, these periods shall be taken into account for the purpose of providing the benefits of the general scheme or, failing that, of the scheme applicable to manual or clerical workers, as the case may be, provided that the person concerned had been affiliated to one or other of those schemes.

2. The periods of insurance completed under a special scheme of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be taken into account for the purpose of providing the benefits of the general scheme or, failing that, of the scheme applicable to manual or clerical workers, as the case may be, of the United Kingdom, in respect of Gibraltar, in the case of a scheme of the Kingdom of Spain, or of the Kingdom of Spain, in the case of a scheme of the United Kingdom, in respect of Gibraltar, provided that the person concerned had been affiliated to one or other of those schemes, even if those periods have already been taken into account under a special scheme in the Kingdom of Spain, in the case of a scheme of the United Kingdom, in respect of Gibraltar, or in Gibraltar, in the case of a scheme of the Kingdom of Spain.

3. Where the legislation or specific scheme of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain makes the acquisition, retention or recovery of the right to benefits conditional upon the person concerned being insured at the time of the materialisation of the risk, this condition shall be regarded as having been satisfied if that person has been previously insured under the legislation or specific scheme of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and is, at the time of the materialisation of the risk, insured under the legislation of the United Kingdom, in respect of Gibraltar, where previously insured under the legislation or a specific scheme of the Kingdom of Spain, or insured under the legislation of the Kingdom of Spain, where previously insured under the legislation or a specific scheme of the United Kingdom, in respect of Gibraltar, for the same risk or, failing that, if a benefit is due under the legislation of the United Kingdom, in respect of Gibraltar, where not due under the legislation of the Kingdom of Spain, or of the Kingdom of Spain, where not due under the legislation of the United Kingdom, in respect of Gibraltar, for the same risk. The latter condition shall, however, be deemed to be fulfilled in the cases referred to in Article SSC.50.

ARTICLE SSC.45

Award of benefits

1. The competent institution shall calculate the amount of the benefit that would be due:
 - (a) under the legislation it applies, only where the conditions for entitlement to benefits have been satisfied exclusively under national law (independent benefit);
 - (b) by calculating a theoretical amount and subsequently an actual amount (pro rata benefit), as follows:
 - (i) the theoretical amount of the benefit is equal to the benefit which the person concerned could claim if all the periods of insurance which have been completed under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, had been completed under the legislation it applies on the date of the award of the benefit. If, under that legislation, the amount does not depend on the duration of the periods completed, that amount shall be regarded as being the theoretical amount;
 - (ii) the competent institution shall then establish the actual amount of the pro rata benefit by applying to the theoretical amount the ratio between the duration of the periods completed before materialisation of the risk under the legislation it applies and the total duration of the periods completed before materialisation of the risk under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

2. Where appropriate, the competent institution shall apply, to the amount calculated in accordance with points (a) and (b) of paragraph 1, all the rules relating to reduction, suspension or withdrawal, under the legislation it applies, within the limits provided for by Articles SSC.46, SSC.47 and SSC.48.
3. The person concerned shall be entitled to receive from the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain the higher of the amounts calculated in accordance with points (a) and (b) of paragraph 1.
4. Where the calculation pursuant to point (a) of paragraph 1 in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain invariably results in the independent benefit being equal to or higher than the pro rata benefit, calculated in accordance with point (b) of paragraph 1, the competent institution shall waive the pro rata calculation, provided that:
- (a) such a situation is set out in Annex SSC-2;
 - (b) no legislation containing rules against overlapping, as referred to in Articles SSC.47 and SSC.48, is applicable unless the conditions laid down in Article SSC.48(2) are fulfilled; and
 - (c) Article SSC.50 is not applicable in the specific circumstances of the case in relation to periods completed under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent.

5. Notwithstanding paragraphs 1, 2 and 3, the pro rata calculation shall not apply to schemes providing benefits in respect of which periods of time are of no relevance to the calculation, subject to such schemes being listed in Annex SSC-2. In such cases, the person concerned shall be entitled to the benefit calculated in accordance with the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSC.46

Rules to prevent overlapping

1. Any overlapping of old-age and survivors' benefits calculated or provided on the basis of periods of insurance completed by the same person shall be considered to be overlapping of benefits of the same kind.
2. Overlapping of benefits which cannot be considered to be of the same kind within the meaning of paragraph 1 shall be considered to be overlapping of benefits of a different kind.
3. The following provisions shall be applicable for the purposes of rules to prevent overlapping laid down by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in the case of overlapping of a benefit in respect of old-age or survivors with a benefit of the same kind or a benefit of a different kind or with other income:
 - (a) the competent institution shall take into account the benefits or incomes acquired in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, only where the legislation it applies provides for benefits or income acquired outside of its territory to be taken into account;

- (b) the competent institution shall take into account the amount of benefits to be paid by the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or by the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, before deduction of tax, social security contributions and other individual levies or deductions, unless the legislation it applies provides for the application of rules to prevent overlapping after such deductions, under the conditions and the procedures laid down in Annex SSC-5;
- (c) the competent institution shall not take into account the amount of benefits acquired under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, on the basis of voluntary insurance or continued optional insurance;
- (d) if the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain applies rules to prevent overlapping because the person concerned receives benefits of the same or of a different kind under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, or income acquired in Gibraltar or the Kingdom of Spain, the benefit due may be reduced solely by the amount of such benefits or such income.

ARTICLE SSC.47

Overlapping of benefits of the same kind

1. Where benefits of the same kind due under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain overlap, the rules to prevent overlapping laid down by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall not be applicable to a pro rata benefit.

2. The rules to prevent overlapping shall apply to an independent benefit only if the benefit concerned is:

- (a) a benefit the amount of which does not depend on the duration of periods of insurance; or
- (b) a benefit the amount of which is determined on the basis of a credited period deemed to have been completed between the date on which the risk materialised and a later date, overlapping with:
 - (i) a benefit of the same type, except where an agreement has been concluded between both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain to avoid the same credited period being taken into account more than once; or
 - (ii) a benefit referred to in point (a).

The benefits and agreements referred to in points (a) and (b) are listed in Annex SSC-3.

ARTICLE SSC.48

Overlapping of benefits of a different kind

1. If the receipt of benefits of a different kind or other income requires the application of the rules to prevent overlapping provided for by the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain regarding:
 - (a) two or more independent benefits, the competent institutions shall divide the amounts of the benefit or benefits or other income, as they have been taken into account, by the number of benefits subject to the said rules; however, the application of this point cannot deprive the person concerned of their status as a pensioner for the purposes of the other chapters of this Title under the conditions and the procedures laid down in Annex SSC-5;
 - (b) one or more pro rata benefits, the competent institutions shall take into account the benefit or benefits or other income and all the elements stipulated for applying the rules to prevent overlapping as a function of the ratio between the periods of insurance established for the calculation referred to in point (b)(ii) of Article SSC.45(1);
 - (c) one or more independent benefits and one or more pro rata benefits, the competent institutions shall apply *mutatis mutandis* point (a) as regards independent benefits and point (b) as regards pro rata benefits.

2. The competent institution shall not apply the division stipulated in respect of independent benefits, if the legislation it applies provides for account to be taken of benefits of a different kind or other income and all other elements for calculating part of their amount determined as a function of the ratio between periods of insurance referred to in point (b) point (ii) of Article SSC.45(1).
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that a right to a benefit cannot be acquired in the case where the person concerned is in receipt of a benefit of a different kind, payable under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, or of other income.

ARTICLE SSC.49

Additional provisions for the calculation of benefits

1. For the calculation of the theoretical and pro rata amounts referred to in point (b) of Article SSC.45(1), the following rules shall apply:
 - (a) where the total length of the periods of insurance completed before the risk materialised under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain is longer than the maximum period required by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain for receipt of full benefit, the competent institution of the United Kingdom, in respect of Gibraltar, where the United Kingdom, in respect of Gibraltar, is competent, or of the Kingdom of Spain, where the Kingdom of Spain is competent, shall take into account this maximum period instead of the total length of the periods completed; this method of calculation shall not result in the imposition on that institution of the cost of a benefit greater than the full benefit provided for by the legislation it applies. This provision shall not apply to benefits the amount of which does not depend on the length of insurance;
 - (b) the procedure for taking into account overlapping periods is laid down in Annex SSC-5;
 - (c) if the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the benefits are to be calculated on the basis of incomes, contributions, bases of contributions, increases, earnings, other amounts or a combination of more than one of them (average, proportional, fixed or credited), the competent institution shall:
 - (i) determine the basis for calculation of the benefits in accordance only with periods of insurance completed under the legislation it applies;

- (ii) use, in order to determine the amount to be calculated in accordance with the periods of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, the same elements determined or recorded for the periods of insurance completed under the legislation it applies; where necessary in accordance with the procedures laid down in Annex SSC-4 for the United Kingdom, in respect of Gibraltar, or for the Kingdom of Spain;
- (d) in the event that point (c) is not applicable because the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides for the benefit to be calculated on the basis of elements other than periods of insurance which are not linked to time, the competent institution shall take into account, in respect of each period of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, the amount of the capital accrued, the capital which is considered as having been accrued or any other element for the calculation under the legislation it administers divided by the corresponding units of periods in the pension scheme concerned.

2. The provisions of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain concerning the revalorisation of the elements taken into account for the calculation of benefits shall apply, as appropriate, to the elements to be taken into account by the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in accordance with paragraph 1, in respect of the periods of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent.

ARTICLE SSC.50

Periods of insurance of less than one year

1. Notwithstanding point (b) of Article SSC.45(1), the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall not be required to provide benefits in respect of periods completed under the legislation it applies which are taken into account when the risk materialises, if:

- (a) the duration of the said periods is less than one year; and
- (b) taking only these periods into account no right to benefit is acquired under that legislation.

For the purposes of this Article, "periods" shall mean all periods of insurance employment or self-employment which either qualify for, or directly increase, the benefit concerned.

2. The competent institution of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall take into account the periods referred to in paragraph 1, for the purposes of point (b)(i) of Article SSC.45(1).

3. If the effect of applying paragraph 1 would be to relieve all the institutions of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain of their obligations, benefits shall be provided exclusively under the legislation of either the United Kingdom, in respect of Gibraltar, where the conditions under its legislation are the last to have been satisfied, or the Kingdom of Spain, where the conditions under its legislation are the last to have been satisfied, as if all the periods of insurance completed and taken into account in accordance with Article SSC.7 and Article SSC.44(1) and (2) had been completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

4. This Article shall not apply to schemes listed in Annex SSC-2.

ARTICLE SSC.51

Award of a supplement

1. A recipient of benefits to whom this Chapter applies may not, in either Gibraltar, where Gibraltar is the place of residence and where under the legislation of the United Kingdom, in respect of Gibraltar, a benefit is payable to them, or in the Kingdom of Spain, where the Kingdom of Spain is the place of residence and under which legislation a benefit is payable to them, be provided with a benefit which is less than the minimum benefit fixed by that legislation for a period of insurance equal to all the periods taken into account for the payment in accordance with this Chapter.
2. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall pay the recipient of benefits referred to in paragraph 1 throughout the period of their residence in Gibraltar or the Kingdom of Spain, respectively, a supplement equal to the difference between the total of the benefits due under this Chapter and the amount of the minimum benefit.

ARTICLE SSC.52

Recalculation and revaluation of benefits

1. If the method for determining benefits or the rules for calculating benefits are altered under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or if the personal situation of the person concerned undergoes a relevant change which, under that legislation, would lead to an adjustment of the amount of the benefit, a recalculation shall be carried out in accordance with Article SSC.45.
2. On the other hand, if, by reason of an increase in the cost of living or changes in the level of income or other grounds for adjustment, the benefits of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain are altered by a percentage or fixed amount, such percentage or fixed amount shall be applied directly to the benefits determined in accordance with Article SSC.45, without the need for a recalculation.

ARTICLE SSC.53

Special provisions for civil servants

1. Articles SSC.7 and SSC.43, Article SSC.44(3) and Articles SSC.45 to SSC.52 shall apply *mutatis mutandis* to persons covered by a special scheme for civil servants.

2. However, if the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain makes the acquisition, liquidation, retention or recovery of the right to benefits under a special scheme for civil servants subject to the condition that all periods of insurance be completed under one or more special schemes for civil servants in Gibraltar or in the Kingdom of Spain, or be regarded by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain as equivalent to such periods, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall take into account only the periods which can be recognised under the legislation it applies.

If, account having been taken of the periods thus completed, the person concerned does not satisfy the conditions for the receipt of these benefits, these periods shall be taken into account for the award of benefits under the general scheme or, failing that, the scheme applicable to manual or clerical workers, as the case may be.

3. Where, under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain benefits under a special scheme for civil servants are calculated on the basis of the last salary or salaries received during a reference period, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall take into account, for the purposes of the calculation, only those salaries, duly revalued, which were received during the period or periods for which the person concerned was subject to that legislation.

CHAPTER 6

UNEMPLOYMENT BENEFITS

ARTICLE SSC.54

Special provisions on aggregation of periods of insurance, employment or self-employment

1. The competent institution of either the United Kingdom, in respect of Gibraltar, where the legislation of the United Kingdom, in respect of Gibraltar, makes the acquisition, retention, recovery or duration of the right to benefits conditional upon the completion of either periods of insurance, employment or self-employment, or the Kingdom of Spain, where the legislation of the Kingdom of Spain makes the acquisition, retention, recovery or duration of the right to benefits conditional upon the completion of either periods of insurance, employment, or self-employment, shall, to the extent necessary, take into account periods of insurance, employment or self-employment completed under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, as though they were completed under the legislation it applies.

However, when the applicable legislation makes the right to benefits conditional on the completion of periods of insurance, employment or self-employment, such periods completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall not be taken into account unless such periods would have been considered to be periods of insurance had they been completed in accordance with the applicable legislation.

2. The application of paragraph 1 of this Article shall be conditional on the person concerned having most recently completed, in accordance with the legislation under which the benefits are claimed:

- (a) periods of insurance, if that legislation requires periods of insurance;
- (b) periods of employment, if that legislation requires periods of employment; or
- (c) periods of self-employment, if that legislation requires periods of self-employment.

ARTICLE SSC.55

Calculation of unemployment benefits

1. Where the calculation of unemployment benefits is based on the amount of the previous salary or professional income of the person concerned, the United Kingdom, in respect of Gibraltar, where the United Kingdom, in respect of Gibraltar, is competent, or the Kingdom of Spain, where the Kingdom of Spain is competent, shall take into account the salary or professional income received by the person concerned based exclusively on their last activity as an employed or self-employed person under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is competent.

2. Where the United Kingdom, in respect of Gibraltar, is competent and the legislation applied by the United Kingdom, in respect of Gibraltar, provides for a specific reference period for the determination of the salary or professional income used to calculate the amount of benefit, and the person concerned was subject to the legislation of the Kingdom of Spain, the United Kingdom, in respect of Gibraltar, shall only take into account the salary or professional income received during their last activity as an employed or self-employed person under that legislation.

Where the Kingdom of Spain is competent and the legislation applied by the Kingdom of Spain provides for a specific reference period for the determination of the salary or professional income used to calculate the amount of benefit, and the person concerned was subject to the legislation of the United Kingdom, in respect of Gibraltar, for all or part of that reference period, the Kingdom of Spain shall only take into account the salary or professional income received during their last activity as an employed or self-employed person under that legislation.

ARTICLE SSC.56

Unemployed persons who resided in the Kingdom of Spain,
where the United Kingdom, in respect of Gibraltar, is competent,
or in Gibraltar, where the Kingdom of Spain is competent

1. Persons who become wholly, partially or intermittently unemployed and during their last activity as an employed or self-employed person in Gibraltar resided in the Kingdom of Spain and who continue to reside in the Kingdom of Spain shall make themselves available to the employment services in Gibraltar. They shall receive benefits in accordance with the legislation of Gibraltar as if they were residing there. These benefits shall be provided by the institution of Gibraltar.

Persons who become wholly, partially or intermittently unemployed and during their last activity as an employed or self-employed person in the Kingdom of Spain resided in Gibraltar and who continue to reside in Gibraltar shall make themselves available to the employment services in the Kingdom of Spain. They shall receive benefits in accordance with the legislation of the Kingdom of Spain as if they were residing there. These benefits shall be provided by the institution of the Kingdom of Spain.

Unemployment benefits may be payable in a lump sum.

2. Persons who are wholly unemployed may, as a complementary step, make themselves available to the competent employment services of the Kingdom of Spain if they reside in the Kingdom of Spain or Gibraltar if they reside in Gibraltar.

Persons who are wholly unemployed who pursued their last activity as an employed or self-employed person in Gibraltar and reside in the Kingdom of Spain, or who pursued their last activity as an employed or self-employed person in the Kingdom of Spain and reside in Gibraltar, may additionally apply for any supplementary unemployment benefits which may be available under Spanish legislation, as if they had been subject to that legislation during their last period of activity or the legislation of the United Kingdom, in respect of Gibraltar, as if they had been subject to that legislation during their last period of activity.

3. Persons referred to in paragraph 2 who are registered as a person seeking work with the competent employment services of the Kingdom of Spain where they reside in the Kingdom of Spain or Gibraltar where they reside in Gibraltar, shall be subject to the control procedure organised in either the Kingdom of Spain or Gibraltar, as the case may be, and shall adhere to the conditions laid down under the legislation applicable in the Kingdom of Spain where they reside in the Kingdom of Spain or Gibraltar where they reside in Gibraltar. Insofar as those persons remain registered as a person seeking work in their place of last activity, those persons shall comply with the obligations applicable.

4. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall adopt the necessary arrangements for the implementation of this Article, in particular as regards lump-sum payments where applicable, as well as the arrangements for exchanges of information, cooperation and mutual assistance between the institutions and services of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain.

The competent institution of the place of employment shall efficiently and without undue delay facilitate the exchange of information and documentation about the periods of insured activity and benefits, in order not to affect the recognition, sustainment, suspension, termination or resumption of the benefits.

CHAPTER 7

PRE-RETIREMENT BENEFITS

ARTICLE SSC.57

Benefits

When the applicable legislation makes the right to pre-retirement benefits conditional on the completion of periods of insurance, of employment or of self-employment, Article SSC.7 shall not apply.

CHAPTER 8

FAMILY BENEFITS

ARTICLE SSC.58

Members of the family residing in the Kingdom of Spain or in Gibraltar

1. A person to whom this Protocol applies shall be entitled to family benefits in accordance with the legislation of the Kingdom of Spain, where the Kingdom of Spain is competent, including for their members of the family residing in Gibraltar as if they were residing in the Kingdom of Spain.

2. A person to whom this Protocol applies shall be entitled to family benefits in accordance with the legislation of the United Kingdom, in respect of Gibraltar, where the United Kingdom, in respect of Gibraltar, is competent, including for their members of the family residing in the Kingdom of Spain as if they were residing in Gibraltar.

3. Pensioners residing either in the Kingdom of Spain or Gibraltar shall be entitled, for the members of their family residing in Gibraltar or the Kingdom of Spain, respectively, to family benefits in accordance with the legislation applied by the institution which is competent for their pension.

ARTICLE SSC.59

Priority rules in the event of overlapping

1. Where, during the same period and for the same family members, benefits are provided for under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain, the following priority rules shall apply:

- (a) in the case of benefits payable by both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain on a different basis, the order of priority shall be as follows: firstly, rights available on the basis of an activity as employed or self-employed person, secondly, rights available on the basis of the receipt of a pension and finally, rights obtained on the basis of residence;

- (b) in the case of benefits payable by both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain on the same basis, the order of priority shall be established by referring to the following subsidiary criteria:
- (i) in the case of rights available on the basis of an activity as an employed or self-employed person: the place of residence of the children, provided that there is such activity, and additionally, where appropriate, the highest amount of the benefits provided for by the conflicting legislation. In the latter case, the cost of the benefits shall be shared in accordance with the criteria laid down in Annex SSC-5;
 - (ii) in the case of rights available on the basis of receipt of pensions: the place of residence of the children, provided that a pension is payable under its legislation, and additionally, where appropriate, the longest period of insurance under the conflicting legislation.

2. In the case of overlapping entitlements, family benefits shall be provided in accordance with the legislation designated as having priority in accordance with paragraph 1. Entitlements to family benefits by virtue of the other conflicting legislation shall be suspended up to the amount provided for by the first legislation and a differential supplement shall be provided, if necessary, for the sum which exceeds this amount. However, such a differential supplement does not need to be provided when the entitlement to the benefits in question is based on residence only.

3. If, under Article SSC.57, an application for family benefits is submitted to the competent institution of either the United Kingdom, in respect of Gibraltar, when its legislation is applicable, or the Kingdom of Spain, when its legislation is applicable, but not by priority in accordance with paragraphs 1 and 2 of this Article:

- (a) that institution shall forward the application to the competent institution of either the United Kingdom, in respect of Gibraltar, when its legislation is applicable by priority, or the Kingdom of Spain, when its legislation is applicable by priority, inform the person concerned and, without prejudice to the provisions of Annex SSC-5 concerning the provisional award of benefits, provide, if necessary, the differential supplement mentioned in paragraph 2;
- (b) the competent institution of either the United Kingdom, in respect of Gibraltar, when its legislation is applicable by priority, or the Kingdom of Spain, when its legislation is applicable by priority, shall deal with this application as though it were submitted directly to itself, and the date on which such application was submitted to the first institution shall be considered as the date of its claim to the institution with priority.

ARTICLE SSC.60

Provision of benefits

In the event that family benefits are not used by the person to whom they should be provided for the maintenance of the members of the family, the competent institution shall discharge its legal obligations by providing those benefits to the natural or legal person in fact maintaining the members of the family, at the request and through the agency of the institution of the place of residence either in the Kingdom of Spain or in Gibraltar or of the designated institution or body appointed for that purpose by the competent authority of the place of residence in either the Kingdom of Spain or Gibraltar.

ARTICLE SSC.61

Additional provisions

1. If, under the legislation designated by virtue of Articles SSC.57 and SSC.58, no right is acquired to the payment of additional or special family benefits for orphans, such benefits shall be paid by default, and in addition to other family benefits acquired in accordance with the abovementioned legislation, under the legislation of either the United Kingdom, in respect of Gibraltar, where the deceased worker was subject for the longest periods of time to the legislation of the United Kingdom, in respect of Gibraltar, insofar as the right was acquired under that legislation, or the Kingdom of Spain, where the deceased worker was subject for the longest periods of time to the legislation of the Kingdom of Spain. If no right was acquired under that legislation, the conditions for the acquisition of such right under the legislation of either the United Kingdom, in respect of Gibraltar, where no right was acquired under the legislation of the Kingdom of Spain, or the Kingdom of Spain, where no right was acquired under the legislation of the United Kingdom, in respect of Gibraltar, shall be examined and benefits shall be provided in decreasing order of the length of periods of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where no right was acquired under the legislation of the Kingdom of Spain, or the Kingdom of Spain, where no right was acquired under the legislation of the United Kingdom, in respect of Gibraltar.
2. Benefits paid in the form of pensions or supplements to pensions shall be provided and calculated in accordance with Chapter 5.

TITLE IV

MISCELLANEOUS PROVISIONS

ARTICLE SSC.62

Cooperation

1. The competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall notify the Specialised Committee on the Circulation of Persons of any changes to their legislation as regards the branches of social security covered by Article SSC.4 which are relevant to or may affect the implementation of this Protocol.
2. Unless this Protocol requires such information to be notified to the Specialised Committee on the Circulation of Persons, the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall communicate to each other measures taken to implement this Protocol that are not notified under paragraph 1 and that are relevant for the implementation of this Protocol.
3. For the purposes of this Protocol, the authorities and institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by those authorities and institutions shall, as a rule, be free of charge. However, the Specialised Committee on the Circulation of Persons shall establish the nature of reimbursable expenses and the limits above which their reimbursement is due.

4. The authorities and institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain may, for the purposes of this Protocol, communicate directly with one another and with the persons involved or their representatives.

5. The institutions and persons covered by this Protocol shall have a duty of mutual information and cooperation to ensure the correct implementation of this Protocol. An administrative arrangement between the authorities directly involved of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall determine the means and procedures to carry out the duty of cooperation on the issuance of documentation, exchange of information, resolution of conflicts, and introduction and settlement of claims.

The institutions, in accordance with the principle of good administration, shall respond to all queries within a reasonable period of time and shall in this connection provide the persons concerned with any information required for exercising the rights conferred on them by this Protocol.

The persons concerned must inform the competent institutions of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, and institutions of the place of residence, as soon as possible of any change in their personal or family situation which affects their right to benefits under this Protocol.

6. Failure to respect the obligation of information referred to in the third subparagraph of paragraph 5 may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Protocol.

7. In the event of difficulties in the interpretation or application of this Protocol which could jeopardise the rights of a person covered by it, the competent institution or the institution of the place of residence shall contact the institution(s) of the United Kingdom, in respect of Gibraltar, where the United Kingdom, in respect of Gibraltar, is concerned, or of the Kingdom of Spain, where the Kingdom of Spain is concerned. If a solution cannot be found within a reasonable period, a Party may request to hold consultations in the framework of the Specialised Committee on the Circulation of Persons.

8. The authorities, institutions and tribunals of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain may not reject applications or other documents submitted to them on the grounds that they are written in an official language of the Union, including in English.

ARTICLE SSC.63

Data processing

1. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall progressively use new technologies for the exchange, access and processing of the data required to apply this Protocol.

2. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain each shall be responsible for managing their own part of the data-processing services.

3. An electronic document sent or issued by an institution in conformity with this Protocol, Annex SSC-5 and the administrative arrangement may not be rejected by any authority or institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain on the grounds that it was received by electronic means, once the receiving institution has declared that it can receive electronic documents. Reproduction and recording of such documents shall be presumed to be a correct and accurate reproduction of the original document or representation of the information it relates to, unless there is proof to the contrary.

4. An electronic document shall be considered valid if the computer system on which the document is recorded contains the safeguards necessary in order to prevent any alteration, disclosure or unauthorised access to the recording. It shall at any time be possible to reproduce the recorded information in an immediately readable form.

ARTICLE SSC.64

Exemptions

1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in respect of certificates or documents required to be produced in application of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, shall be extended to similar certificates or documents required to be produced in application of the legislation of either the United Kingdom, in respect of Gibraltar, where the exemption is provided under the legislation of the Kingdom of Spain, or the Kingdom of Spain, where the exemption is provided under the legislation of the United Kingdom, in respect of Gibraltar, or of this Protocol.
2. All statements, documents and certificates of any kind whatsoever required to be produced in application of this Protocol shall be exempt from authentication by diplomatic or consular authorities.

ARTICLE SSC.65

Claims, declarations or appeals

Any claim, declaration or appeal which should have been submitted, in application of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain within a specified period to an authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, shall be admissible if it is submitted within the same period to a corresponding authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain. In such a case, the authority, institution or tribunal receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, either directly or through the competent authorities concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be considered as the date of their submission to the competent authority, institution or tribunal.

ARTICLE SSC.66

Medical examinations

1. Medical examinations provided for by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain may be carried out, at the request of the competent institution, in the territory of Gibraltar or the Kingdom of Spain by the institution of the place of stay or residence of the claimant or the person entitled to benefits, under the conditions laid down in Annex SSC-5.

2. Medical examinations carried out under the conditions laid down in paragraph 1 shall be considered as having been carried out in the territory of Gibraltar or the Kingdom of Spain.

ARTICLE SSC.67

Collection of contributions and recovery of benefits

1. Collection of contributions due to an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and recovery of benefits provided by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain but not due, may be effected in Gibraltar or the Kingdom of Spain in accordance with the procedures and with the guarantees and privileges applicable to the collection of contributions due to the corresponding institution of the latter and the recovery of benefits provided by it but not due.
2. Enforceable decisions of the judicial and administrative authorities relating to the collection of contributions, interest and any other charges or to the recovery of benefits provided but not due under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be recognised and enforced at the request of the competent institution in Gibraltar or the Kingdom of Spain within the limits and in accordance with the procedures laid down by the legislation and any other procedures applicable to similar decisions of the latter. Such decisions shall be declared enforceable in Gibraltar or the Kingdom of Spain insofar as the legislation and any other procedures of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain so require.

3. Claims of an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall in enforcement, bankruptcy or settlement proceedings in Gibraltar, in the case of claims of an institution of the Kingdom of Spain, or in the Kingdom of Spain, in the case of claims of an institution of the United Kingdom, in respect of Gibraltar, enjoy the same privileges as the legislation that the latter accords to claims of the same kind.

4. The procedure for implementing this Article, including costs reimbursement, shall be governed by Annex SSC-5 or, where necessary and as a complementary measure, by means of administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

ARTICLE SSC.68

Rights of institutions

1. If a person receives benefits under the legislation of either the United Kingdom, in respect of Gibraltar, in respect of an injury resulting from events occurring in the Kingdom of Spain, or the Kingdom of Spain, in respect of an injury resulting from events occurring in Gibraltar, any rights of the institution responsible for providing benefits against a third party liable to provide compensation for the injury shall be governed by the following rules:

- (a) where the institution responsible for providing benefits is, under the legislation it applies, subrogated to the rights which the beneficiary has against the third party, such subrogation shall be recognised by the United Kingdom, in respect of Gibraltar, and by the Kingdom of Spain; and

(b) where the institution responsible for providing benefits has a direct right against the third party, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall recognise such rights.

2. If a person receives benefits under the legislation of either the United Kingdom, in respect of Gibraltar, in respect of an injury resulting from events occurring in the Kingdom of Spain, or the Kingdom of Spain, in respect of an injury resulting from events occurring in Gibraltar, the provisions of the said legislation which determine the cases in which the civil liability of employers or of their employees is to be excluded shall apply with regard to the said person or to the competent institution.

Paragraph 1 shall also apply to any rights of the institution responsible for providing benefits against employers or their employees in cases where their liability is not excluded.

3. Where, in accordance with Article SSC.27(3) or SSC.33(2) the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain or their competent authorities have concluded an agreement to waive reimbursement between them, or, where reimbursement does not depend on the amount of benefits actually provided, any rights arising against a liable third party shall be governed by the following rules:

(a) where the institution of the United Kingdom, in respect of Gibraltar, where the residence or stay is in Gibraltar, or of the Kingdom of Spain, where the residence or stay is in the Kingdom of Spain, grants benefits to a person in respect of an injury sustained in its territory, that institution, in accordance with the provisions of the legislation it applies, shall exercise the right to subrogation or direct action against the third party liable to provide compensation for the injury;

- (b) for the application of point (a):
 - (i) the person receiving benefits shall be deemed to be insured with the institution of the place of residence or stay; and
 - (ii) that institution shall be deemed to be the institution responsible for providing benefits;
- (c) paragraphs 1 and 2 shall remain applicable in respect of any benefits not covered by the waiver agreement or a reimbursement which does not depend on the amount of benefits actually provided.

ARTICLE SSC.69

Implementation of legislation

Special provisions for implementing the legislation applicable in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain are referred to in Annex SSC-4.

TITLE V

FINAL PROVISIONS

ARTICLE SSC.70

Protection of individual rights

1. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure in accordance with their domestic legal orders that the provisions of this Protocol have the force of law, either directly or through domestic legislation giving effect to those provisions, so that legal or natural persons can invoke those provisions before domestic courts, tribunals and administrative authorities.
2. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure the means for legal and natural persons to effectively protect their rights under this Protocol, such as the possibility to address complaints to administrative bodies or to bring legal action before a competent court or tribunal in an appropriate judicial procedure, in order to seek an adequate and timely remedy.

ARTICLE SSC.71

Transitional provision

1. No rights shall be acquired pursuant to this Protocol for the period before its date of application.

2. Any period of insurance and, where appropriate, any period of employment or self-employment completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain prior to the date of application of this Protocol shall be taken into consideration for the determination of rights acquired under this Protocol.
3. Subject to paragraph 1, a right shall be acquired under this Protocol even if it relates to a contingency arising before its date of application.
4. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of application of this Protocol, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.
5. The rights of a person to whom a pension was provided prior to the date of application of this Protocol in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain may, at the request of the person concerned, be reviewed, taking into account this Protocol.
6. If a request referred to in paragraph 4 or 5 is submitted within two years from the date of application of this Protocol, the rights acquired in accordance with this Protocol shall have effect from that date, and the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, as the case may be, concerning the forfeiture or limitation of rights, may not be invoked against the persons concerned.

7. If a request referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period following the date of application of this Protocol, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, as the case may be.

ARTICLE SSC.72

Amendments

The Specialised Committee on the Circulation of Persons may amend the Annexes to this Protocol.

ADVANCES OF MAINTENANCE PAYMENTS
AND SPECIAL CHILDBIRTH AND ADOPTION ALLOWANCES
AS REFERRED TO IN POINT (j) OF ARTICLE SSC.1

I. Advances of maintenance payments

KINGDOM OF SPAIN

Advances of maintenance payments under the Royal Decree 1618/2007 of 7 December 2007.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

II. Special childbirth and adoption allowances

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Maternity grant under Section 11 of the Gibraltar Social Security (Insurance) Act 1955.

CASES IN WHICH THE PRO RATA CALCULATION
SHALL BE WAIVED OR SHALL NOT APPLY
AS REFERRED TO IN ARTICLE SSC.45

Part 1

Cases in which the pro rata calculation shall be waived
pursuant to Article SSC.45(4) of this Protocol

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

Part 2

Cases in which Article SSC.45(5) of this Protocol applies

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

**BENEFITS AND AGREEMENTS
WHICH ALLOW THE APPLICATION OF ARTICLE SSC.47**

- I. Benefits referred to in point (a) of Article SSC.47(2) of this Protocol, the amount of which is independent of the length of periods of insurance or residence completed.

KINGDOM OF SPAIN

Survivors' pensions granted under the general and special schemes, with the exception of the Special Scheme for Civil Servants.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Survivor's bereavement allowance, widowed parent's allowance and survivor's pension under the Gibraltar Social Security (Open Long-Term Benefits Scheme) Act 1997 and the Gibraltar Social Security (Closed Long-Term Benefits and Scheme) Act 1996.

Disablement pension and death benefit under the Gibraltar Social Security (Employment Injuries Insurance) Act 1952.

- II. Benefits referred to in point (b) of Article SSC.47(2) of this Protocol, the amount of which is determined by reference to a credited period deemed to have been completed between the date on which the risk materialised and a later date.

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

- III. Agreements referred to in point (b)(i) of Article SSC.47(2) of this Protocol intended to prevent the same credited period being taken into account more than once:

No such agreements have been concluded.

SPECIAL PROVISIONS FOR THE APPLICATION
OF THE LEGISLATION OF THE UNITED KINGDOM,
IN RESPECT OF GIBRALTAR, OR OF THE KINGDOM OF SPAIN

(Articles SSC.44(3), SSC.49(1) and SSC.69)

(Equivalent of Annex XI of Regulation (EC) No 883/2004)

KINGDOM OF SPAIN

1. For the purpose of implementing point (b)(i) of Article SSC.45(1) of this Protocol, the years which the worker lacks to reach the pensionable or compulsory retirement age as stipulated under Article 31(4) of the consolidated version of the Ley de Clases Pasivas del Estado (Law on State Pensioners) shall be taken into account as actual years of service to the State only if at the time of the event in respect of which invalidity or death pensions are due, the beneficiary was covered by the Kingdom of Spain's special scheme for civil servants or was performing an activity assimilated under the scheme, or if, at the time of the event in respect of which the pensions are due, the beneficiary was performing an activity that would have required the person concerned to be included under the State's special scheme for civil servants, the armed forces or the judiciary, had the activity been performed in the Kingdom of Spain.

- (a) Under point (c) of Article SSC.49(1) of this Protocol, the calculation of the theoretical Spanish benefit shall be carried out on the basis of the actual contributions of the person during the years immediately preceding payment of the last contribution to Spanish social security. Where, in the calculation of the basic amount for the pension, periods of insurance or residence under the legislation of the United Kingdom, in respect of Gibraltar, have to be taken into account, the contribution basis in the Kingdom of Spain which is closest in time to the reference periods shall be used for the aforementioned periods, taking into account the development of the retail price index.
 - (b) The amount of the pension obtained shall be increased by the amount of the increases and revaluations calculated for each subsequent year for pensions of the same nature.
3. Periods completed in Gibraltar which must be calculated in the special scheme for civil servants, the armed forces and the judicial administration, will be treated in the same way, for the purposes of Article SSC.49 of this Protocol, as the periods closest in time covered as a civil servant in the Kingdom of Spain.

4. The additional amounts based on age referred to in the Second Transitional Provision of the General Law on Social Security shall be applicable to all beneficiaries of this Protocol who have contributions to their name under the Spanish legislation prior to 1 January 1967; it shall not be possible, by application of Article SSC.6 of this Protocol, to treat periods of insurance credited in Gibraltar prior to the aforementioned date as being the same as contributions paid in the Kingdom of Spain, solely for the purposes of this Protocol. The date corresponding to 1 January 1967 shall be 1 August 1970 for the Special Scheme for Seafarers and 1 April 1969 for the Special Social Security Scheme for Coal Mining.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

There are no special provisions relevant, for the purposes of this Annex, for the application of the legislation of the United Kingdom, in respect of Gibraltar.

IMPLEMENTING ANNEX
TO THE PROTOCOL ON SOCIAL SECURITY COORDINATION

TITLE I

GENERAL PROVISIONS

CHAPTER I

DEFINITIONS

ARTICLE SSCI.1

Definitions

1. For the purposes of this Annex, the definitions set out in Article SSC.1 shall apply.
2. In addition to the definitions referred to in paragraph 1,
 - (a) "access point" means an entity providing:
 - (i) an electronic contact point;

- (ii) automatic routing based on the address; and
 - (iii) intelligent routing based on software that enables automatic checking and routing (for example, an artificial intelligence application) and/or human intervention;
- (b) "document" means a set of data, irrespective of the medium used, structured in such a way that it can be exchanged electronically and which must be communicated in order to enable the operation of this Protocol and this Annex;
- (c) "liaison body" means any body notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain for one or more of the branches of social security referred to in Article SSC.4 of this Protocol to respond to requests for information and assistance for the purposes of the application of this Protocol and this Annex and which has to fulfil the tasks assigned to it under Title IV of this Annex;
- (d) "Structured Electronic Document" means any structured document in a format designed for the electronic exchange of information between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain;
- (e) "transmission by electronic means" means the transmission of data using electronic equipment for the processing (including digital compression) of data and employing wires, radio transmission, optical technologies or any other electromagnetic means.

CHAPTER II

PROVISIONS CONCERNING COOPERATION AND EXCHANGES OF DATA

ARTICLE SSCI.2

Scope and rules for exchanges between institutions

1. For the purposes of this Annex, exchanges between authorities and institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain and persons covered by this Protocol shall be based on the principles of public service, efficiency, active assistance, rapid delivery and accessibility, including e-accessibility, in particular for the disabled and the elderly.
2. The institutions shall without delay provide or exchange all data necessary for establishing and determining the rights and obligations of persons to whom this Protocol applies. Such data shall be transferred between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain directly by the institutions themselves or indirectly via the liaison bodies.

3. Where a person has mistakenly submitted information, documents or claims to an institution across the border in the territory of Gibraltar or of the Kingdom of Spain but which is not the institution designated in accordance with this Annex, the information, documents or claims shall be resubmitted without delay by the former institution to the institution designated in accordance with this Annex, indicating the date on which they were initially submitted. That date shall be binding on the latter institution. The institutions of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall not, however, be held liable, or be deemed to have taken a decision by virtue of their failure to act as a result of the late transmission of information, documents or claims by the institutions of the Kingdom of Spain and the United Kingdom, in respect of Gibraltar, respectively.

4. Where data are transferred indirectly via the liaison body of the place of destination, time limits for responding to claims shall start from the date when that liaison body received the claim, as if it had been received by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSCI.3

Scope and rules for exchanges between the persons concerned and institutions

1. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure that the necessary information is made available to the persons concerned in order to inform them of the changes introduced by this Protocol and this Annex to enable them to assert their rights. They shall also provide for user friendly services.

2. Persons to whom this Protocol applies shall be required to forward to the relevant institution the information, documents or supporting evidence necessary to establish their situation or that of their families, to establish or maintain their rights and obligations and to determine the applicable legislation and their obligations under it.
3. To the extent necessary for the application of this Protocol and this Annex, the relevant institutions shall forward the information and issue the documents to the persons concerned without delay and in all cases within the time limits specified under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned.

The relevant institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall notify the claimant residing or staying in the Kingdom of Spain or Gibraltar, respectively, of its decision directly or through the liaison body of the place of residence or stay. When refusing the benefits, it shall also indicate the reasons for refusal, the remedies and periods allowed for appeals. A copy of this decision shall be sent to other involved institutions.

ARTICLE SSCI.4

Forms, documents and methods of exchanging data

1. Subject to paragraph 2, the structure, content and format of forms and documents issued on behalf of the United Kingdom, in respect of Gibraltar, and on behalf of the Kingdom of Spain for the purpose of implementing this Protocol shall be agreed by the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain.

2. For an interim period, the end date of which shall be agreed by the United Kingdom, in respect of Gibraltar, and by the Kingdom of Spain, all forms and documents issued by the competent institutions in the format used immediately before this Protocol comes into force shall be valid for the purpose of implementing this Protocol and, where appropriate, shall continue to be used for the exchange of information between competent institutions. All such forms and documents issued before and during that interim period shall be valid until their expiry or cancellation. The forms and documents valid in accordance with this paragraph include portable documents which certify a person's social security situation as required to give effect to this Protocol.
3. The transmission of data between the institutions or the liaison bodies may be carried out via the Electronic Exchange of Social Security Information. To the extent the forms and documents referred to in paragraph 1 are exchanged via the Electronic Exchange of Social Security Information, they shall respect the rules applicable to that system.
4. Where the transmission of data between institutions or the liaison bodies is carried out via the Electronic Exchange of Social Security Information, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain will bear the related costs.
5. Where the transmission of data between institutions or the liaison bodies is not carried out via the Electronic Exchange of Social Security Information, the relevant institutions and liaison bodies shall use the arrangements appropriate to each case, and favour the use of electronic means as far as possible.
6. In their communications with the persons concerned, the relevant institutions shall use the arrangements appropriate to each case and favour the use of electronic means as far as possible.

ARTICLE SSCI.5

Legal value of documents and supporting evidence
issued in the United Kingdom,
in respect of Gibraltar, and in the Kingdom of Spain

1. Documents issued by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and showing the position of a person for the purposes of the application of this Protocol and this Annex, and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the Kingdom of Spain and of the United Kingdom, in respect of Gibraltar, respectively, for as long as they have not been withdrawn or declared to be invalid by the United Kingdom, in respect of Gibraltar, or by the Kingdom of Spain, whichever issued them.
2. Where there is doubt about the validity of a document or the accuracy of the facts on which the particulars contained therein are based, the relevant institution that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document. The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it.
3. Pursuant to paragraph 2, where there is doubt about the information provided by the persons concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the particulars contained therein are based, the institution of the place of stay or residence shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document.

ARTICLE SSCI.6

Provisional application of legislation and provisional granting of benefits

1. Unless otherwise provided for in this Annex, where there is a difference of views between the institutions or authorities of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain concerning the determination of the applicable legislation, the person concerned shall be made provisionally subject to the legislation of one of them, the order of priority being determined as follows:

- (a) the legislation of the place where the person actually pursues their employment or self-employment, if the employment or self-employment is pursued in only one place;
- (b) the legislation of the place of residence if the person concerned pursues employment or self-employment in both the Kingdom of Spain and Gibraltar;
- (c) in all other cases, the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the application of whichever was first requested, if the person pursues an activity, or activities, in both Gibraltar and the Kingdom of Spain.

2. Where there is a difference of views between the institutions or authorities of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain about which institution should provide the benefits in cash or in kind, the person concerned who could claim benefits if there was no dispute shall be entitled, on a provisional basis, to the benefits provided for by the legislation applied by the institution of that person's place of residence.

3. Where it is established either that the applicable legislation is not that of the place of provisional membership or the institution which granted the benefits on a provisional basis was not the competent institution, the institution identified as being competent shall be deemed retroactively to have been so, as if that difference of views had not existed, at the latest from either the date of provisional membership or of the first provisional granting of the benefits concerned.

4. If necessary, the institution identified as being competent and the institution which provisionally paid the cash benefits or provisionally received contributions shall settle the financial situation of the person concerned as regards contributions and cash benefits paid provisionally, where appropriate, in accordance with Title IV of this Annex.

Benefits in kind granted provisionally by an institution in accordance with paragraph 2 shall be reimbursed by the competent institution in accordance with Title IV of this Annex.

ARTICLE SSCI.7

Provisional calculation of benefits and contributions

1. Unless otherwise provided for in this Annex, where a person is eligible for a benefit, or is liable to pay a contribution in accordance with this Protocol, and the competent institution does not have all the information concerning the situation in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, which is necessary to calculate definitively the amount of that benefit or contribution, that institution shall, on request of the person concerned, award this benefit or calculate this contribution on a provisional basis, if such a calculation is possible on the basis of the information at the disposal of that institution.

2. The benefit or the contribution concerned shall be recalculated once all the necessary supporting evidence or documents are provided to the institution concerned.

CHAPTER III

OTHER GENERAL PROVISIONS FOR THE APPLICATION OF THIS PROTOCOL

ARTICLE SSCI.8

Other procedures between authorities and institutions

The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain or their competent authorities may agree procedures other than those provided for by this Annex, provided that such procedures do not adversely affect the rights or obligations of the persons concerned.

ARTICLE SSCI.9

Prevention of overlapping of benefits

Notwithstanding other provisions in this Protocol, when benefits due under the legislation of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain are mutually reduced, suspended or withdrawn, any amounts that would not be paid in the event of strict application of the rules concerning reduction, suspension or withdrawal laid down by the legislation of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain, whichever is concerned, shall be divided by the number of benefits subject to reduction, suspension or withdrawal.

ARTICLE SSCI.10

Aggregation of periods

1. For the purpose of applying Article SSC.7, the competent institution shall contact the institution to whose legislation the person concerned has been subject previously in order to determine all the periods completed under its legislation.
2. The respective periods of insurance, employment or self-employment completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be added to those completed under the legislation the competent institution applies, insofar as necessary for the purpose of applying Article SSC.7, provided that these periods do not overlap.

3. Where a period of insurance which is completed in accordance with compulsory insurance under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain coincides with a period of insurance completed on the basis of voluntary insurance or continued optional insurance under the legislation of either the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, only the period completed on the basis of compulsory insurance shall be taken into account.
4. Where a period of insurance other than an equivalent period completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain coincides with an equivalent period on the basis of the legislation of either the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, only the period other than an equivalent period shall be taken into account.
5. Any period regarded as equivalent under the legislation of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall be taken into account only by the institution applying the legislation the person concerned was last compulsorily subject to before that period. In the event that the person concerned was not compulsorily subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain before that period, the latter shall be taken into account by the institution applying the legislation the person concerned was compulsorily subject to for the first time after that period.
6. In the event that the time in which certain periods of insurance were completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain cannot be determined precisely, it shall be presumed that these periods do not overlap with periods of insurance completed under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, and account shall be taken thereof, where advantageous to the person concerned, insofar as they can reasonably be taken into consideration.

ARTICLE SSCI.11

Rules for the conversion of periods

1. Where periods completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain are expressed in units different from those provided for by the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, the conversion needed for the purposes of aggregation under Article SSC.7 shall be carried out under the following rules:

- (a) the period to be used as the basis for the conversion shall be that communicated by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain under whose legislation the period was completed;
- (b) in the case of schemes where the periods are expressed in days the conversion from days to other units, and vice versa, as well as between different schemes based on days shall be calculated according to the following table:

Scheme based on	1 day corresponds to	1 week corresponds to	1 month corresponds to	1 quarter corresponds to	Maximum of days in one calendar year
5 days	9 hours	5 days	22 days	66 days	264 days
6 days	8 hours	6 days	26 days	78 days	312 days
7 days	6 hours	7 days	30 days	90 days	360 days

- (c) in the case of schemes where the periods are expressed in units other than days,
 - (i) three months or 13 weeks shall be equivalent to one quarter, and vice versa;

- (ii) one year shall be equivalent to four quarters, 12 months or 52 weeks, and vice versa;
- (iii) for the conversion of weeks into months, and vice versa, weeks and months shall be converted into days in accordance with the conversion rules for the schemes based on six days in the table in point (b);
- (d) in the case of periods expressed in fractions, those figures shall be converted into the next smaller integer unit applying the rules laid down in points (b) and (c). Fractions of years shall be converted into months unless the scheme involved is based on quarters;
- (e) if the conversion under this paragraph results in a fraction of a unit, the next higher integer unit shall be taken as the result of the conversion under this paragraph.

2. The application of paragraph 1 shall not have the effect of producing, for the total sum of the periods completed during one calendar year, a total exceeding the number of days indicated in the last column in the table in point (b) of paragraph 1, 52 weeks, 12 months or four quarters.

If the periods to be converted correspond to the maximum annual amount of periods under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in which they have been completed, the application of paragraph 1 shall not result within one calendar year in periods that are shorter than the possible maximum annual amount of periods provided under the legislation concerned.

3. The conversion shall be carried out either in one single operation covering all those periods which were communicated as an aggregate, or for each year, if the periods were communicated on a year-by-year basis.

4. Where an institution communicates periods expressed in days, it shall at the same time indicate whether the scheme it administers is based on five days, six days or seven days.

TITLE II

DETERMINATION OF THE LEGISLATION APPLICABLE

ARTICLE SSCI.12

Details relating to Articles SSC.11, SSC.12 and SSC.13 of this Protocol

1. For the purposes of the application of Article SSC.11(1) and (2) and Article SSC.12 of this Protocol, the words "which normally carries out its activities there" shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of Gibraltar or the Kingdom of Spain in which it is established, taking account of all criteria characterising the activities carried out by the undertaking in question. The relevant criteria must be suited to the specific characteristics of each employer and the real nature of the activities carried out.
2. For the purposes of the application of Article SSC.11(3) and (4) of this Protocol, the words "who normally pursues an activity as a self-employed frontier worker" shall refer to a person established in Gibraltar or in the Kingdom of Spain who habitually carries out substantial activities in the territory of Gibraltar or of the Kingdom of Spain, respectively. In particular, such a person established in Gibraltar or in the Kingdom of Spain must have already pursued their activity for some time before the date on which they wish to take advantage of the provisions of that Article and, during any period of temporary activity in the Kingdom of Spain or in Gibraltar, respectively, must continue to fulfil, in Gibraltar or in the Kingdom of Spain, where they are established, the requirements for the pursuit of their activity in order to be able to pursue it on their return.

3. For the purposes of the application of Article SSC.11(3) and (4) of this Protocol, the criterion for determining whether the activity that a self-employed person goes to pursue in the Kingdom of Spain or Gibraltar is "similar" to the self-employed activity normally pursued shall be that of the actual nature of the activity, rather than of the designation of employed or self-employed activity that may be given to this activity by the Kingdom of Spain or Gibraltar, respectively.
4. For the purposes of the application of Article SSC.13(2) of this Protocol, a person who "normally pursues an activity as an employed person in the Kingdom of Spain and Gibraltar" shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in the Kingdom of Spain and Gibraltar.
5. For the purposes of Article SSC.13(2) of this Protocol, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in the Kingdom of Spain and Gibraltar shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, depending on where the home base is located.
6. Marginal activities shall be disregarded for the purpose of determining the applicable legislation under Article SSC.13 of this Protocol. Article SSCI.15 of this Annex shall apply to all cases under this Article.

7. For the purposes of the application of Article SSC.13(3) of this Protocol, a person who "normally pursues an activity as a self-employed person in the Kingdom of Spain and Gibraltar" shall refer, in particular, to a person who simultaneously or in alternation pursues one or more separate self-employed activities, irrespective of the nature of those activities, in the Kingdom of Spain and Gibraltar.

8. For the purpose of distinguishing the activities under paragraphs 1 and 4 of this Article from the situations described in Article SSC.11 of this Protocol, the duration of the activity in the place of residence (whether it is permanent or of an ad hoc or temporary nature) shall be decisive. For these purposes, an overall assessment shall be made of all the relevant facts including, in particular, in the case of an employed person, the place of work as defined in the employment contract.

9. For the purposes of the application of Article SSC.13 of this Protocol, a "substantial part of employed or self-employed activity" pursued in the Kingdom of Spain or in Gibraltar shall mean a quantitatively substantial part of all the activities of the employed or self-employed person pursued there, without this necessarily being the major part of those activities.

To determine whether a substantial part of the activities is pursued in the Kingdom of Spain or Gibraltar, the following indicative criteria shall be taken into account:

- (a) in the case of an employed activity, the working time or the remuneration; and
- (b) in the case of a self-employed activity, the turnover, working time, number of services rendered or income.

In the framework of an overall assessment, a share of less than 25 % in respect of the criteria mentioned above shall be an indicator that a substantial part of the activities is not being pursued in the Kingdom of Spain or Gibraltar.

10. For the purposes of the application of point (b) of Article SSC.13(3) of this Protocol, the "centre of interest" of the activities of a self-employed person shall be determined by taking account of all the aspects of that person's occupational activities, notably the place where the person's fixed and permanent place of business is located, the habitual nature or the duration of the activities pursued, the number of services rendered, and the intention of the person concerned as revealed by all the circumstances.

11. For the determination of the applicable legislation under paragraphs 5 and 6, the institutions concerned shall take into account the situation projected for the following 12 calendar months.

12. If a person pursues their activity as an employed person in the Kingdom of Spain and Gibraltar on behalf of an employer established outside the territory of the Kingdom of Spain and Gibraltar, and if this person resides in Gibraltar or the Kingdom of Spain, respectively, without pursuing substantial activity there, they shall be subject to the legislation of the place of residence.

ARTICLE SSCI.13

Procedures for the application of point (b) of Article SSC.10(3), Article SSC.10(4) and Articles SSC.11 and SSC.12 of this Protocol

1. Unless otherwise provided for by Article SSCI.14 of this Annex, where a person pursues their activity in Gibraltar, where the Kingdom of Spain is competent under Title II of this Protocol, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent under Title II of this Protocol, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whose legislation is applicable, thereof, whenever possible in advance. That institution shall issue the attestation referred to in Article SSCI.15(2) of this Annex to the person concerned and shall without delay make information concerning the legislation applicable to that person, pursuant to point (b) of Article SSC.10(3) or Article SSC.11 or SSC.12 of this Protocol, available to the institution designated by the competent authority of the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, where the activity is pursued.
2. An employer within the meaning of Article SSC.10(4) of this Protocol whose registered office or place of business is in Gibraltar and who has an employee on board a vessel flying the flag of the Kingdom of Spain, or whose registered office or place of business is in the Kingdom of Spain and who has an employee on board a vessel flying the flag of the United Kingdom, in respect of Gibraltar, shall inform the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, whose legislation is applicable, thereof, whenever possible in advance. That institution shall, without delay, make information concerning the legislation applicable to the person concerned, pursuant to Article SSC.10(4) of this Protocol, available to the institution designated by the competent authority of the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, whose flag the vessel on which the employee is to perform the activity is flying.

ARTICLE SSCI.14

Procedure for the application of Article SSC.13 of this Protocol

1. A person who pursues activities in the Kingdom of Spain and Gibraltar shall inform the institution designated by the competent authority of the place of residence thereof.
2. The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article SSC.13 of this Protocol and Article SSCI.12 of this Annex. That initial determination shall be provisional. The institution shall inform the designated institution of the other place in which an activity is pursued of its provisional determination.
3. The provisional determination of the applicable legislation, as provided for in paragraph 2, shall become definitive within two months of the institution designated by the competent authorities of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned, being informed of it, in accordance with paragraph 2, unless the legislation has already been definitively determined on the basis of paragraph 4, or the institution concerned informs the institution designated by the competent authority of the place of residence by the end of this two-month period that it cannot yet accept the determination or that it takes a different view on this.
4. Where uncertainty about the determination of the applicable legislation requires contacts between the institutions or authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain, at the request of one or more of the institutions designated by the competent authorities of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or of the competent authorities themselves, the legislation applicable to the person concerned shall be determined by common agreement, having regard to Article SSC.13 of this Protocol and the relevant provisions of Article SSCI.12 of this Annex.

Where there is a difference of views between the institutions or competent authorities concerned, those bodies shall seek agreement in accordance with the conditions set out above and Article SSCI.6 shall apply.

5. The competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain whose legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned.

6. If the person concerned fails to provide the information referred to in paragraph 1, this Article shall be applied at the initiative of the institution designated by the competent authority of the place of residence as soon as it is appraised of that person's situation, possibly via another institution concerned.

ARTICLE SSCI.15

Provision of information to persons concerned and employers

1. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain whose legislation becomes applicable pursuant to Title II of this Protocol shall inform the person concerned and, where appropriate, the employer(s) of the obligations laid down in that legislation. It shall provide them with the necessary assistance to complete the formalities required by that legislation.

2. At the request of the person concerned or of the employer, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain whose legislation is applicable pursuant to Title II of this Protocol shall provide an attestation that such legislation is applicable and shall indicate, where appropriate, until what date and under what conditions.

ARTICLE SSCI.16

Cooperation between institutions

1. The relevant institutions shall communicate to the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain whose legislation is applicable to a person pursuant to Title II of this Protocol the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and the employer(s) are liable to pay under that legislation.

2. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain whose legislation becomes applicable to a person pursuant to Title II of this Protocol shall make the information indicating the date on which the application of that legislation takes effect available to the institution designated by the competent authority applying the legislation that person was last subject to.

TITLE III

SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER I

SICKNESS, MATERNITY AND EQUIVALENT PATERNITY BENEFITS

ARTICLE SSCI.17

General implementing provisions

1. The competent authorities or institutions shall ensure that any necessary information is made available to insured persons regarding the procedures and conditions for the granting of benefits in kind where such benefits are received in the place of residence.
2. Notwithstanding point (a) of Article SSC.6 of this Protocol, the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain may become responsible for the cost of benefits in accordance with Article SSC.19 of this Protocol only if either the insured person has made a claim for a pension under the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain or, in accordance with Articles SSC.20 to SSC.24 of this Protocol, they receive a pension under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSCI.18

Regime applicable in the event of the existence of more than one regime
in the place of residence or place of work

If the legislation of the place of residence or place of work comprises more than one scheme of sickness, maternity and paternity insurance for more than one category of insured persons, the provisions applicable under Articles SSC.16, SSC.19 and SSC.21 of this Protocol shall be those of the legislation on the general scheme for employed persons.

ARTICLE SSCI.19

Residence in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar,
is competent, or in Gibraltar, where the Kingdom of Spain is competent

1. For the purposes of the application of Article SSC.16 of this Protocol, the frontier worker and/or members of their family shall be obliged to register with the institution of the place of residence. Their right to benefits in kind in the place of residence shall be certified by a document issued by the competent institution upon request of the insured person or upon request of the institution of the place of residence.
2. The document referred to in paragraph 1 shall remain valid until the competent institution informs the institution of the place of residence of its cancellation.

The institution of the place of residence shall inform the competent institution of any registration under paragraph 1 and of any change or cancellation of that registration.

3. This Article shall apply *mutatis mutandis* to the persons referred to in Articles SSC.20 and SSC.21 of this Protocol.

ARTICLE SSCI.20

Application of Article SSC.17(2) of this Protocol

1. For the purposes of Article SSC.17(2) of this Protocol, the person concerned must present to the health care provider in the Kingdom of Spain or Gibraltar, as the case may be, a document issued by the competent institution of the United Kingdom, in respect of Gibraltar, where the stay is in the Kingdom of Spain, or the competent institution of the Kingdom of Spain, where the stay is in Gibraltar, indicating their entitlement to benefits in kind under that provision. If the person does not have such a document, the competent institutions, upon request or if otherwise necessary, shall contact each other in order to verify that the person is entitled to benefits in kind under this provision.
2. The benefits in kind provided by the institution of the place of stay on behalf of the competent institution under Article SSC.17(2) of this Protocol shall give rise to full reimbursement.

ARTICLE SSCI.21

Application of Article SSC.22 of this Protocol

If the former frontier worker is no longer covered by the legislation of the place where their last activity was pursued, and the former frontier worker or a member of their family travels there with the purpose of receiving benefits in kind pursuant to Article SSC.22 of this Protocol, they shall submit to the institution of the place of stay a document issued by the competent institution.

ARTICLE SSCI.22

Contributions by pensioners

If a person receives a pension from the United Kingdom, in respect of Gibraltar, and from the Kingdom of Spain, the amount of contributions deducted from all the pensions paid shall, under no circumstances, be greater than the amount deducted in respect of a person who receives the same amount of pension from the United Kingdom, in respect of Gibraltar, or from the Kingdom of Spain.

CHAPTER II

BENEFITS IN RESPECT OF ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

ARTICLE SSCI.23

Right to benefits in kind and in cash in place of residence

1. For the purposes of the application of Article SSC.28 of this Protocol, the procedures laid down in Articles SSCI.25 and SSCI. 26 of this Annex shall apply *mutatis mutandis*.
2. When providing special benefits in kind in connection with accidents at work and occupational diseases under the legislation of the place of residence, the institution of that place of residence shall without delay inform the competent institution.

CHAPTER III

DEATH GRANTS

ARTICLE SSCI.24

Claim for death grants

For the purpose of applying Articles SSC.34 and SSC.35 of this Protocol, the claim for death grants shall be sent either to the competent institution or to the institution of the claimant's place of residence, which shall send it to the competent institution.

The claim shall contain the information required under the legislation applied by the competent institution.

CHAPTER IV

INVALIDITY BENEFITS AND OLD-AGE AND SURVIVORS' PENSIONS

ARTICLE SSCI.25

Additional provisions for the calculation of benefit

1. For the purpose of calculating the theoretical amount and the actual amount of the benefit in accordance with point (b) of Article SSC.45(1) of this Protocol, the rules provided for in Article SSCI.10(3), (4), (5) and (6) of this Annex shall apply.
2. Where periods of voluntary or optional continued insurance have not been taken into account under Article SSCI.10(3) of this Annex, the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, under whose legislation those periods were completed shall calculate the amount corresponding to those periods under the legislation it applies. The actual amount of the benefit, calculated in accordance with point (b) of Article SSC.45(1) of this Protocol shall be increased by the amount corresponding to periods of voluntary or optional continued insurance.
3. The institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain shall calculate, under the legislation it applies, the amount due corresponding to periods of voluntary or optional continued insurance which, under point (c) of Article SSC.46(3) of this Protocol, shall not be subject to the rules relating to withdrawal, reduction or suspension of either the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar.

Where the legislation applied by the competent institution does not allow it to determine this amount directly, on the grounds that that legislation allocates different values to insurance periods, a notional amount may be established. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall lay down the detailed arrangements for the determination of that notional amount.

ARTICLE SSCI.26

Taking into account child-raising periods

1. For the purposes of this Article, "child-raising period" refers to any period which is credited under the pension legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively.
2. Where, under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, which is competent under Title II of this Protocol, no child-raising period is taken into account, the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain whose legislation, according to Title II of this Protocol, was applicable to the person concerned at the date when, under that legislation, the child-raising period started to be taken into account for the child concerned, shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory.
3. Paragraph 2 shall not apply if the person concerned is, or becomes, subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain due to the pursuit of an employed or self-employed activity.

CHAPTER V

UNEMPLOYMENT BENEFITS

ARTICLE SSCI.27

Aggregation of periods and calculation of benefits

1. Article SSCI.10 of this Annex shall apply *mutatis mutandis* to Article SSC.54 of this Protocol. Without prejudice to the underlying obligations of the institutions involved, the person concerned may submit to the competent institution a document issued by the institution of the place of residence to whose legislation they were subject to in respect of their last activity as an employed or self-employed person specifying the periods completed under that legislation.
2. For the purpose of applying Article SSC.55 of this Protocol, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whose legislation provides that the calculation of benefits varies with the number of members of the family shall also take into account the members of the family of the person concerned who are residing in the same household as if they resided in the place of the competent institution. This provision shall not apply where, in the place of residence of members of the family, another person is entitled to unemployment benefits calculated on the basis of the number of members of the family.

ARTICLE SSCI.28

Unemployed persons who resided outside the place of competence

1. The competent institution of the place of last employment shall inform wholly unemployed persons of their rights and obligations and shall provide them with documents which shall include all necessary information related to the receipt of unemployment benefits in accordance with its legislation in the place of residence.
2. The relevant institutions of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall provide each other with the necessary information to support the job-seeking activities of unemployed persons and to inform them about the applicable control procedures and conditions, and to which employment service they are to make themselves available. The institution of the place of residence shall, upon request of the competent institution, immediately inform the competent institution of any circumstances of which it is aware and which are likely to affect the entitlement to benefits, in particular, if the wholly unemployed persons have taken up employment or have become self-employed in the place of residence.
3. Where, in accordance with Article SSC.56 of this Protocol, an unemployed person decides to make themselves also available to the employment services of the place of residence, by registering there as a person seeking work, they shall inform the competent institution and the employment services providing the benefits.

4. Where requested by the employment services of the place of residence, the competent employment services shall send the relevant information concerning the unemployed person's registration and their search for employment. The employment services of the place of residence shall also, upon request of the competent institution, immediately inform the competent institution of any circumstances of which it is aware and which are likely to affect the entitlement to benefits, in particular, if the wholly unemployed person has taken up employment or has become self-employed in the place of residence.

ARTICLE SSCI.29

Enhanced measures of support and cooperation for unemployed persons who resided outside the place of competence

The competent authorities or competent institutions of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall cooperate and may agree amongst themselves specific procedures and time-limits concerning the follow-up of the unemployed person's situation as well as other measures to facilitate the job-seeking activities of unemployed persons concerned.

CHAPTER VI

FAMILY BENEFITS

ARTICLE SSCI.30

Priority rules in the event of overlapping

For the purpose of applying point (b)(i) and (ii) of Article SSC.59(1) of this Protocol, where the order of priority cannot be established on the basis of the children's place of residence, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall calculate the amount of benefits including the children not resident within its own territory. In the event of applying point (b)(i) of Article SSC.59(1) of this Protocol, the institution that applies the legislation which provides for the highest level of benefits shall pay the full amount of such benefits and shall be reimbursed half this sum by the other institution up to the limit of the amount provided for in the legislation applied by the latter institution.

ARTICLE SSCI.31

Rules applicable where the applicable legislation and/or the competence to grant family benefits changes

1. Where the applicable legislation and/or the competence to grant family benefits change between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain during a calendar month, irrespective of the payment dates of family benefits under the legislation of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain, the institution which has paid the family benefits by virtue of the legislation under which the benefits have been granted at the beginning of that month shall continue to do so until the end of the month in progress.

2. The institution that continues to pay the family benefits in accordance with paragraph 1 shall inform the other institution of the date on which it ceases to pay those family benefits. Payment of benefits from either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain shall take effect from that date.

ARTICLE SSCI.32

Procedure for applying Articles SSC.58 and SSC.59 of this Protocol

1. The application for family benefits shall be addressed to the competent institution. For the purpose of applying Articles SSC.58 and SSC.59 of this Protocol, the situation of the whole family shall be taken into account as if all the persons involved were subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and residing in Gibraltar or in the Kingdom of Spain, in particular as regards a person's entitlement to claim such benefits. Where a person entitled to claim the benefits does not exercise their right, an application for family benefits submitted by the other parent, a person treated as a parent, or a person or institution acting as guardian of the child or children shall be taken into account by the competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain.

2. The institution to which an application is made in accordance with paragraph 1 shall examine the application on the basis of the detailed information supplied by the applicant, taking into account the overall factual and legal situation of the applicant's family. If that institution concludes that its legislation is applicable by priority right in accordance with Articles SSC.58 and SSC.59 of this Protocol, it shall provide the family benefits according to the legislation it applies.

If it appears to that institution that there may be an entitlement to a differential supplement by virtue of the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain in accordance with Article SSC.59(2) of this Protocol, that institution shall forward the application, without delay, to the competent institution of either the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, and inform the person concerned; moreover, it shall inform the other institution of its decision on the application and the amount of family benefits paid.

3. Where the institution to which the application is made concludes that its legislation is applicable, but not by priority right in accordance with Article SSC.59(1) and (2) of this Protocol, it shall take a provisional decision, without delay, on the priority rules to be applied and shall forward the application, in accordance with Article SSC.59(3) of this Protocol, to the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain and shall also inform the applicant thereof. That institution shall take a position on the provisional decision within two months.

If the institution to which the application was forwarded does not take a position within two months of the receipt of the application, the provisional decision referred to above shall apply and the institution shall pay the benefits provided for under its legislation and inform the institution to which the application was made of the amount of benefits paid.

4. Where there is a difference of views between the institutions concerned about which legislation is applicable by priority right, Article SSCI.6(2), (3) and (4) shall apply. For this purpose, the institution of the place of residence referred to in Article SSCI.6(2) shall be the institution of the child's or children's place of residence.

5. If the institution which has supplied benefits on a provisional basis has paid more than the amount for which it is ultimately responsible, it may claim reimbursement of the excess from the institution with primary responsibility in accordance with the procedure laid down in the administrative arrangement.

TITLE IV

FINANCIAL PROVISIONS

CHAPTER I

REIMBURSEMENT OF THE COST OF BENEFITS IN APPLICATION OF ARTICLES SSC.17, SSC.27 AND SSC.33 OF THIS PROTOCOL

ARTICLE SSCI.33

Principles

For the purpose of applying Articles SSC.17, SSC.27 and SSC.33 of this Protocol, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall adopt the necessary arrangements in order to ensure the full reimbursement of benefits provided to persons covered by this Protocol by the competent institution to the institution providing those benefits.

ARTICLE SSCI.34

Procedure for reimbursement between institutions

The reimbursements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall be made as promptly as possible by the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain. Every institution concerned shall be obliged to reimburse claims, as soon as it is in a position to do so. A dispute concerning a particular claim shall not hinder the reimbursement of another claim or other claims.

CHAPTER II

RECOVERY OF BENEFITS PROVIDED BUT NOT DUE, RECOVERY OF PROVISIONAL PAYMENTS AND CONTRIBUTIONS, OFFSETTING AND ASSISTANCE WITH RECOVERY

ARTICLE SSCI.35

Common provisions

For the purpose of applying Article SSC.67 of this Protocol and within the framework defined therein, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall adopt the necessary arrangements to ensure, wherever possible, offsetting either between the institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain concerned, or recovery *vis-à-vis* the natural or legal person concerned.

TITLE V

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

ARTICLE SSCI.36

Medical examination and administrative checks

1. Without prejudice to other provisions, medical examination shall be carried out, at the request of the competent institution, by the institution of the beneficiary's place of residence in accordance with the procedures laid down by the legislation applied by that institution.

The debtor institution shall inform the institution of the place of residence of any special requirements, if necessary, to be followed and points to be covered by the medical examination.

2. The institution of the place of residence shall forward a report to the debtor institution that requested the medical examination. This institution shall be bound by the findings of the institution of the place of residence.

The debtor institution shall reserve the right to have the beneficiary examined by a doctor of its choice. However, the beneficiary may be asked to return to the place where the debtor institution is established only if they are able to make the journey without prejudice to their health and the cost of travel and accommodation is paid for by the debtor institution.

3. The administrative check shall, at the request of the debtor institution, be performed by the institution of the beneficiary's place of residence.

Paragraph 2 shall also apply in this case.

4. The competent authorities or competent institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain may agree specific provisions and procedures to improve fully or partly the labour-market readiness of claimants and recipients and their participation in any schemes or programmes available in the place of residence for that purpose.

5. As an exception to the principle of free-of-charge mutual administrative cooperation in Article SSC.62(3) of this Protocol, the effective amount of the expenses of the checks referred to in paragraphs 1, 2 and 3 of this Article shall be refunded to the institution which was requested to carry them out by the debtor institution which requested them.

ARTICLE SSCI.37

Information

The competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall prepare the information needed to ensure that the persons covered are aware of their rights and the administrative formalities required in order to assert them. This information shall, where possible, be disseminated electronically via publication online on sites accessible to the public. They shall ensure that the information is regularly updated and monitor the quality of services provided to customers.

ARTICLE SSCI.38

Currency conversion

1. For the purpose of applying this Protocol and this Annex, the exchange rate between the currencies applied in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain, respectively, shall be the reference rate published by the European Central Bank.
2. For the purpose of applying this Protocol and this Annex, the rate of conversion shall be understood as a daily conversion rate published by the European Central Bank.
3. If not otherwise stated in this Article, the rate of conversion shall be the rate published on the day when the operation is performed.
4. An institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which, for the purposes of the establishment of an entitlement, and for the first calculation of the benefit, has to convert an amount shall use:
 - (a) when, according to national legislation or this Protocol, an institution takes into account amounts, such as earnings or benefits, during a certain period before the date for which the benefit is calculated, the rate of conversion published on the last day of that period;

- (b) when, according to national legislation or this Protocol, for the purposes of calculation of the benefit an institution takes into account one amount, the rate of conversion published on the first day of the month immediately preceding the month when the provision must be applied.

5. Paragraph 4 shall apply *mutatis mutandis* when an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain has to convert an amount for the recalculation of the benefit due to changes in the factual or legal situation of the person concerned.

6. An institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which pays a benefit that is regularly indexed in accordance with the national legislation, and where the amounts in other currency have an impact on that benefit, shall, when recalculating it, use the rate of conversion published on the first day of the month preceding the month when the indexation is due, unless provided for differently in the national legislation.

7. For the purposes of this Article, the date to be taken into account for determining the applicable exchange rate between the currencies of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall be:

- (a) in the case of a request for offsetting from arrears or ongoing payments, the working day immediately preceding the day on which the applicant party sent the final request for offsetting from arrears or ongoing payments; or
- (b) in the case of a request for recovery, the working day immediately preceding the day on which the applicant party sent the first request for recovery.

For the purposes of this paragraph, "working day" shall refer to a working day of the European Central Bank on which it publishes a daily reference rate for currency exchange.

ARTICLE SSCI.39

Transitional provisions relating to pensions

1. Where the contingency arises before the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain and the claim for pension has not been awarded before that date, such claim shall give rise to a double award, inasmuch as benefits must be granted, pursuant to such contingency, for a period prior to that date:
 - (a) for the period prior to the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain in accordance with agreements in force between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain;
 - (b) for the period commencing on the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain in accordance with this Protocol.

However, if the amount calculated pursuant to the provisions referred to under point (a) is greater than that calculated pursuant to the provisions referred to under point (b), the person concerned shall continue to be entitled to the amount calculated pursuant to the provisions referred to under point (a).

2. A claim for invalidity, old-age or survivors' benefits submitted to an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain from the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain shall automatically necessitate the reassessment of the benefits which have been awarded for the same contingency prior to that date by the institution or institutions of, respectively, the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, as appropriate in accordance with this Protocol. Such reassessment may not give rise to any reduction in the amount of the benefit awarded.

PROTOCOL
ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

ARTICLE PCUST.1

Definitions

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

- (a) "applicant authority" means an administrative authority requesting administrative assistance under this Protocol and notified by a Party as competent for that purpose;
- (b) "customs legislation" means any laws or regulations applicable in the territory of either Party governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (c) "information" means any data, document, image, report, communication or authenticated copy, in any format, including electronic, whether or not processed or analysed;
- (d) "operation in breach of customs legislation" means any violation or attempted violation of customs legislation;

- (e) "requested authority" means an administrative authority receiving a request for assistance under this Protocol and notified by a Party as competent for that purpose;
- (f) "person" means any natural or legal person; and
- (g) "personal data" means any information relating to an identified or identifiable natural person.

ARTICLE PCUST.2

Scope

1. The Parties shall assist each other in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.
2. The provisions on assistance in customs matters in this Protocol apply to any administrative authority of either Party which is competent for the application of this Protocol. That assistance shall neither prejudice the provisions governing mutual assistance in criminal matters nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.
3. Assistance in the recovery of duties, taxes or fines is covered by the Protocol on administrative cooperation and combating fraud in the field of value added tax and excise duty and on mutual assistance for the recovery of claims relating to taxes and duties.

ARTICLE PCUST.3

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide the applicant authority with all relevant information which may enable the applicant authority to ensure that customs legislation is correctly applied, including information related to activities noted or planned which are or could be operations in breach of customs legislation.
2. At the request of the applicant authority, the requested authority shall in particular inform it whether:
 - (a) goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods; or
 - (b) goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the applicant authority, the requested authority shall take the necessary steps in accordance with its applicable laws and regulations to ensure special surveillance of and to provide the applicant authority with information on:
 - (a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

- (b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of customs legislation;
- (c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of customs legislation;
- (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and
- (e) premises suspected by the applicant authority of being used to commit breaches of customs legislation.

ARTICLE PCUST.4

Spontaneous assistance

The Parties shall assist each other on their own initiative in accordance with their laws and regulations by providing information on concluded, planned or ongoing activities which constitute or appear to constitute operations in breach of customs legislation and which may be of interest to the other Party. The information shall focus in particular on:

- (a) goods known to be subject to operations in breach of customs legislation;

- (b) persons in respect of whom there are reasonable grounds for believing they are or have been involved in operations in breach of customs legislation;
- (c) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation; and
- (d) new means or methods employed in carrying out operations in breach of customs legislation.

ARTICLE PCUST.5

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing either in print or electronic format. They shall be accompanied by the documents necessary to enable compliance with the request. In case of urgency, or as the applicant authority and the requested authority may otherwise agree the requested authority may accept oral requests but such oral requests shall be confirmed by the applicant authority in writing promptly.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the applicant authority and requesting official;
 - (b) the information or type of assistance requested;
 - (c) the object of and the reason for the request;

- (d) the laws and regulations and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the goods or persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out; and
- (g) any additional available details to enable the requested authority to comply with the request.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority, English always being an acceptable language. This requirement does not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out in this Article, the requested authority may require the correction or the completion of the request. Pending such correction or completion, precautionary measures may be ordered.

ARTICLE PCUST.6

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed promptly, within the limits of its competence, as though it was acting on its own account or at the request of another authority of that same Party, by supplying information already in its possession, by carrying out appropriate enquiries or by arranging for those enquiries to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own. In providing any such assistance the requested authority shall give appropriate consideration to the urgency of the request.
2. Requests for assistance shall be executed in accordance with the laws and regulations of the requested Party.

ARTICLE PCUST.7

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries conducted pursuant to a request made under this Protocol to the applicant authority in writing, together with relevant documents, certified copies of documents or other items. This information may be provided in electronic format. A requested authority may communicate results of enquiries orally, but this shall be followed up in writing.

2. Original documents shall be transmitted according to each Party's legal constraints, and only at the request of the applicant authority, in cases where certified copies would be insufficient. The applicant authority shall return those originals at the earliest opportunity.

3. Under the provisions referred to in paragraph 2, the requested authority shall deliver to the applicant authority any information related to the authenticity of the documents issued or certified by official agencies within its territory in support of a goods declaration.

ARTICLE PCUST.8

Presence of officials of one Party in the territory of another

1. Duly authorised officials of a Party may, with the agreement of the other Party and subject to the conditions laid down by the latter, be present in the offices of the requested authority or any other concerned authority referred to in paragraph 1 of Article PCUST.6 to obtain information relating to activities that are or could be operations in breach of customs legislation, which the applicant authority needs for the purposes of this Protocol.

2. With the agreement of the requested Party, and subject to the conditions it may specify, duly authorised officials of the other Party may be present at enquiries carried out in the requested Party's territory.

ARTICLE PCUST.9

Delivery and notification

1. At the request of the applicant authority, the requested authority shall take all necessary measures in accordance with its applicable laws and regulations in order to deliver any documents or to notify any decisions of the applicant authority that fall within the scope of this Protocol to an addressee residing or established in the territory of the requested authority.
2. Such requests for the delivery of documents or the notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority, English always being an acceptable language.

ARTICLE PCUST.10

Automatic exchange of information

1. The Parties may, by mutual arrangement in accordance with Article PCUST.15 of this Protocol:
 - (a) exchange any information covered by this Protocol on an automatic basis; and
 - (b) exchange specific information in advance of the arrival of consignments in the territory of the other Party.

2. The Parties may establish arrangements on the type of information they wish to exchange and the format and the frequency of transmission to implement the exchanges under points (a) and (b) of paragraph 1.

ARTICLE PCUST.11

Exceptions to the obligation to provide assistance

1. Assistance under this Protocol may be refused or may be subject to the satisfaction of certain conditions or requirements in cases where a Party is of the opinion that such assistance would:

- (a) be likely to prejudice the sovereignty of the United Kingdom, in respect of Gibraltar, or that of a Member State which has been requested to provide assistance under this Protocol;
- (b) be likely to prejudice public policy, security or other essential interests in particular in the cases referred to in paragraph 5 of Article PCUST.12 of this Protocol; or
- (c) violate an industrial, commercial or professional secret.

2. The requested authority may postpone the assistance on the grounds that such assistance will interfere with ongoing investigations, prosecutions or proceedings. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. In the cases referred to in paragraphs 1 and 2, the requested authority shall communicate its decision and the reasons for that decision in writing to the applicant authority without delay.

ARTICLE PCUST.12

Information exchange and confidentiality

1. The information received under this Protocol shall be used solely for the purposes established in this Protocol.

2. The use of information obtained under this Protocol in administrative or judicial proceedings instituted in respect of operations in breach of customs legislation is considered to be for the purposes of this Protocol. Therefore, the Parties may use information obtained and documents consulted in accordance with the provisions of this Protocol as evidence in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts or tribunals. The requested authority may subject the supply of information or the granting of access to documents to the condition that it is notified of such use.

3. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

4. Any information communicated in whatsoever form pursuant to this Protocol shall be considered to be of a confidential or restricted nature, in accordance with the laws and regulations applicable in each Party's territory. That information shall be covered by the obligation of professional secrecy and shall enjoy the protection granted to similar information under the relevant laws and regulations of the receiving Party, unless the Party which provided the information gives its prior consent to the disclosure of such information. The Parties shall communicate to each other information on their applicable laws and regulations.

5. Personal data may be transferred only in accordance with the data protection rules of the Party providing the data. Each Party shall inform the other Party about the relevant data protection rules and, if needed, use best efforts to agree on additional protections.

ARTICLE PCUST.13

Experts and witnesses

The requested authority may authorise its officials to appear, within the limitations of the authorisation granted, as experts or witnesses in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or confidential or certified true copies thereof, as may be needed for the proceedings. The request for appearance shall indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE PCUST.14

Assistance expenses

1. Subject to paragraphs 2 and 3, the Parties shall waive any claims on each other for reimbursements of expenses incurred in the execution of this Protocol.
2. Expenses and allowances paid to experts, witnesses, interpreters and translators, other than public service employees, shall be borne as appropriate by the requesting Party.
3. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult to determine the terms and conditions under which the request is to be executed, as well as the manner in which the costs are to be borne.

ARTICLE PCUST.15

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the competent authorities of the United Kingdom, in respect of Gibraltar, and on the other hand to the competent services of the European Commission and the customs authorities of the Member States, as appropriate. They shall decide on all practical measures and arrangements necessary for the implementation of this Protocol, taking into consideration their respective applicable laws and regulations, in particular for the protection of personal data.

2. Each Party shall keep the other Party informed of the detailed implementation measures which it adopts in accordance with the provisions of this Protocol, in particular with respect to the duly authorised services and officials designated as competent to send and receive the communications provided for in this Protocol.

3. In the Union, the provisions of this Protocol shall not affect the communication of any information obtained under this Protocol between the competent services of the European Commission and the customs authorities of the Member States.

ARTICLE PCUST.16

Other agreements

The provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual administrative assistance in customs matters which has been or may be concluded between individual Member States and the United Kingdom, in respect of Gibraltar, insofar as the provisions of those bilateral agreements are incompatible with those of this Protocol.

ARTICLE PCUST.17

Consultations

In respect of the interpretation and implementation of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Specialised Committee on Economy and Trade.

ARTICLE PCUST.18

Future developments

With a view to supplementing the levels of mutual assistance provided for in this Protocol, the Specialised Committee on Economy and Trade may adopt a decision to expand this Protocol by establishing arrangements on specific sectors or matters in accordance with the Parties' respective customs legislation.

PROTOCOL
ON ADMINISTRATIVE COOPERATION AND COMBATING FRAUD
IN THE FIELD OF VALUE ADDED TAX AND EXCISE DUTY
AND ON MUTUAL ASSISTANCE FOR THE RECOVERY OF CLAIMS
RELATING TO TAXES AND DUTIES

TITLE I

GENERAL PROVISIONS

ARTICLE PVAT.1

Objective

The objective of this Protocol is to establish a framework for administrative cooperation between the Member States and the United Kingdom, in respect of Gibraltar (hereinafter, for the purposes only of this Protocol, "the Parties"), in order to enable their authorities to assist each other in ensuring compliance with VAT, excise duty and transaction tax legislation, as applicable, and in protecting such tax revenue and in recovering claims related to taxes and duties.

ARTICLE PVAT.2

Scope

This Protocol lays down rules and procedures for cooperation:

- (a) to exchange any information that may help to effect a correct assessment of VAT, excise duty and transaction tax, as applicable, monitor the correct application of such taxes and to combat fraud related to such taxes;
- (b) for the recovery of:
 - (i) claims relating to VAT, transaction tax, customs duties and excise duties, levied by or on behalf of a Party or its territorial or administrative subdivisions, excluding the local authorities;
 - (ii) administrative penalties, fines, fees and surcharges relating to the claims referred to in point (i) imposed by the administrative authorities that are competent to levy the taxes or duties concerned or carry out administrative enquiries with regard to them, or confirmed by administrative or judicial bodies at the request of those administrative authorities; and
 - (iii) interest and costs relating to such claims.

ARTICLE PVAT.3

Definitions

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

- (a) "administrative enquiry" means all the controls, checks and other action taken by any of the Parties in the performance of their duties with a view to ensuring the proper application of the VAT, transaction tax or excise duty legislation;
- (b) "applicant authority" means the competent authority requesting assistance for recovery;
- (c) "by electronic means" means using electronic equipment for the processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;
- (d) "competent authority" means the authority notified pursuant to Article PVAT.4(1);
- (e) "customs duties" means the duty payable on goods entering or leaving the customs territory of each Party in accordance with the rules set out in their customs legislation;
- (f) "excise duties" means those duties and charges defined as such under the domestic legislation of the Party in which the requesting authority is located;

- (g) "person" means a natural person, a legal person, any association of persons which is not a legal person but which is recognised in a Party as having the capacity to perform legal acts and any other legal arrangement of whatever nature and form, regardless of whether it has legal personality;
- (h) "requested authority" means the competent authority receiving a request for assistance;
- (i) "requesting authority" means the competent authority requesting assistance for VAT, transaction tax or excise duties;
- (j) "spontaneous exchange" means the non-systematic communication, at any moment and without prior request, of information to the United Kingdom, in respect of Gibraltar, or any of the Union Member States;
- (k) "third country" means a country that is neither a Union Member State nor the United Kingdom, in respect of Gibraltar;
- (l) "transaction tax" means the tax pursuant to the Relationship with the European Union Act 2026 of Gibraltar; and
- (m) "VAT" means value added tax pursuant to Council Directive 2006/112/EC¹ for the Union.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ EU L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>).

ARTICLE PVAT.4

Organisation

1. Each Party shall notify or designate, as appropriate, a competent authority responsible for the application of this Protocol and shall inform the other Party thereof.
2. Each Party shall notify or designate, as appropriate:
 - (a) a single authority to act as requesting or requested authority for the administrative cooperation on VAT and transaction tax, as applicable, under Title II of this Protocol;
 - (b) a single authority to act as requesting or requested authority for the administrative cooperation on excise duties under Title II of this Protocol;
 - (c) a single authority to act as applicant or requested authority for the administrative cooperation under Title III of this Protocol.
3. The competent authority of the United Kingdom, in respect of Gibraltar, referred to in paragraph 1 shall inform the European Commission of the authorities of the United Kingdom, in respect of Gibraltar, notified in accordance with paragraph 2, and of any updates to these notifications. The European Commission shall pass on this information to the Member States.

4. The Member States' competent authority referred to in paragraph 1 shall inform the European Commission of the authorities designated in accordance with paragraph 2, and of any updates to these designations. The European Commission shall pass on this information to the competent authority of the United Kingdom, in respect of Gibraltar, referred to in paragraph 1.

5. The information concerning the single authorities referred to in paragraph 2 shall contain all contact details, including a telephone number and an e-mail address for electronic communication.

ARTICLE PVAT.5

Use of languages

Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority, English always being an acceptable language. This requirement does not apply to any documents that accompany the request.

ARTICLE PVAT.6

Confidentiality

1. Any information obtained by a Party under this Protocol shall be treated as confidential and used solely for the purposes of this Protocol.

2. Any information received under this Protocol shall enjoy the protection granted to similar information under the relevant laws and regulation of the receiving authority.
3. Such information may be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the application of VAT, excise duty, transaction tax or customs duties legislation, including recovery or precautionary measures with regard to claims referred to in point (b) of Article PVAT.2.
4. Further use shall require prior written consent of the authority supplying the information.
5. Reports, statements and any other documents, or certified true copies or extracts thereof, obtained by a Party under the assistance provided by this Protocol may be invoked as evidence in that Party on the same basis as similar documents provided by another authority of that Party.

TITLE II

ADMINISTRATIVE COOPERATION AND COMBATING VAT, EXCISE DUTY AND TRANSACTION TAX FRAUD

CHAPTER 1

EXCHANGE OF INFORMATION ON REQUEST

ARTICLE PVAT.7

Exchange of information and administrative enquiries

1. At the request of the requesting authority, the requested authority shall communicate all relevant information referred to in point (a) of Article PVAT.2, including any information relating to a specific case or cases.
2. For the purpose of forwarding the information referred to in paragraph 1, the requested authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information.
3. The requested authority may consult with the requesting authority on the need for specific enquiries and shall communicate the information obtained, including reports, statements, certified copies and any other document.

ARTICLE PVAT.8

Assistance on excise duty requests

At the request of the requesting authority, the requested authority shall take the necessary steps in accordance with its applicable laws and regulations to ensure special surveillance of and to provide the requesting authority with information on:

- (a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of excise duty legislation;
- (b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of excise duty legislation;
- (c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of excise duty legislation;
- (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of excise duty legislation;
- (e) premises suspected by the requesting authority of being used to commit breaches of excise duty legislation;

- (f) movement of goods; and
- (g) any other relevant information concerning an economic operator or a tax warehouse which may be involved in operations in breach of excise duty legislation.

ARTICLE PVAT.9

Time limit for providing information

1. The requested authority shall provide the information referred to in Article PVAT.7 as quickly as possible and no later than 90 days following the date of receipt of the request. However, where the requested authority is already in possession of that information, the time limit shall be reduced to a maximum period of 30 days.
2. Where the requested authority is unable to meet the time limits referred to in paragraph 1, it shall inform the requesting authority in writing of the reasons and indicate when a reply may be expected.

CHAPTER 2

EXCHANGE OF INFORMATION WITHOUT PRIOR REQUEST

ARTICLE PVAT.10

Spontaneous exchange of information

The competent authority of a Party shall, without prior request, forward to the competent authority of the other Party any information relevant for the correct application of VAT, excise duties or transaction tax, in particular where:

- (a) taxation is deemed to take place in the other Party;
- (b) a breach of VAT, excise duty or transaction tax legislation has been committed or is likely to have been committed in the other Party; or
- (c) there is a risk of tax loss in the other Party.

CHAPTER 3

OTHER FORMS OF COOPERATION

ARTICLE PVAT.11

Administrative notification

1. At the request of the requesting authority, the requested authority shall take measures to deliver or notify documents or decisions falling within the scope of this Protocol to addressees in its territory. Requests shall be made in writing, English always being acceptable.
2. Requests shall include the name and address of the addressee, the subject of the decision or instrument and any other relevant information.
3. The requested authority shall inform the requesting authority immediately of its response to the request for notification and notify it, in particular, of the date of notification of the decision or instrument to the addressee.

ARTICLE PVAT.12

Presence in administrative offices and participation in administrative enquiries

1. By agreement between the requesting authority and the requested authority, the requested authority may allow officials of the requesting authority to be present in its offices, or any other place where those authorities carry out their duties or during administrative enquiries carried out in its territory, with a view to exchanging the information referred to in point (a) of Article PVAT.2. Such administrative enquiries shall be carried out exclusively by the officials of the requested authority. The officials of the requesting authority shall not exercise the powers of inspection conferred on officials of the requested authority.
2. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may take part in the administrative enquiries carried out in the territory of the Party of the requested authority with a view to collecting and exchanging the information referred to in point (a) of Article PVAT.2. Such administrative enquiries shall be carried out jointly by the officials of the requesting and requested authorities and shall be conducted under the direction and according to the legislation of the Party of the requested authority.

CHAPTER 4

GENERAL PROVISIONS

ARTICLE PVAT.13

Conditions governing the exchange of information

1. The requested authority shall provide the requesting authority with the information referred to in point (a) of Article PVAT.2 or carry out an administrative notification referred to in Article PVAT.11, provided that:

- (a) the number and nature of the requests for information or administrative notification made by the requesting authority do not impose a disproportionate administrative burden; and
- (b) the requesting authority has exhausted the usual sources of information available.

2. This Protocol shall impose no obligation to have enquiries carried out or to provide information on a particular case if the laws or administrative practices of the Party which would have to supply the information do not authorise that Party to carry out those enquiries or collect or use that information for its own purposes.

3. A requested authority may refuse to provide information where the requesting authority is unable, for legal reasons, to provide similar information.

4. The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

5. Paragraphs 2, 3 and 4 shall in no case be interpreted as authorising the requested authority to refuse to supply information on the sole grounds that this information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a legal person.

6. The requested authority shall inform the requesting authority of the grounds for refusing a request for assistance.

ARTICLE PVAT.14

Forms of communication

1. Requests pursuant to this Protocol shall be made in writing, including in electronic form. Requests shall include, as far as possible:

- (a) the requesting authority and the requesting official;
- (b) the type of assistance requested;
- (c) the object of and the reason for the request;
- (d) the legal elements involved;

- (e) indications as exact and comprehensive as possible of the goods, persons or transactions which are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out; and
- (g) any additional details available to enable the requested authority to comply with the request.

2. If a request does not meet the requirements set out in this Article, the requested authority may require its correction or completion. Pending such correction or completion, precautionary measures may nevertheless be ordered where appropriate.

TITLE III

RECOVERY ASSISTANCE

CHAPTER 1

EXCHANGE OF INFORMATION

ARTICLE PVAT.15

Request for information

1. At the request of the applicant authority, the requested authority shall provide any information for the identification of debtors or assets located in its territory and necessary to recover the claims referred to in this Protocol.
2. The requested authority may carry out or arrange the necessary administrative enquiries as if acting in its own recovery cases.
3. Assistance may be refused only where:
 - (a) the requested authority could not obtain the same information for its own purposes;
 - (b) disclosure would reveal a professional or commercial secret; or

(c) disclosure would be contrary to public policy or security.

4. Information may not be refused solely because it is held by a financial institution or a representative acting on behalf of another person.

5. Where assistance is refused, the requested authority shall inform the applicant authority in writing and give reasons.

ARTICLE PVAT.16

Presence in administrative offices and participation in administrative enquiries

1. With the agreement of the requested authority, officials authorised by the applicant authority may be present in the offices of the requested authority or take part in administrative enquiries related to recovery cases.

2. During such activities, the visiting officials shall act under the supervision and in accordance with the procedures of the requested authority. They shall not exercise any enforcement powers on their own.

3. When national law allows, the requested authority may permit the visiting officials to consult relevant files, interview persons involved or assist in hearings or court proceedings.

4. Visiting officials shall carry written authorisation confirming their identity and official capacity and shall respect the same confidentiality obligations as officials of the requested authority.

CHAPTER 2

ASSISTANCE FOR THE NOTIFICATION OF DOCUMENTS

ARTICLE PVAT.17

Request for notification of certain documents relating to claims

1. At the request of the applicant authority, the requested authority shall notify the addressee of any instruments, decisions or documents falling within the scope of this Protocol, including those of a judicial nature, relating to VAT, excise duty, transaction tax, customs duties or their recovery.

Requests for notification shall include:

- (a) the applicant authority and contact details of the office responsible;
 - (b) the name, address and any other data relevant to the identification of the addressee, insofar as available;
 - (c) the nature and subject of the document to be notified; and
 - (d) a short description of the claim concerned, including the amount if applicable.
2. Requests shall be made in writing, including electronically.

3. The requested authority shall notify the document in accordance with its domestic law. Once notification has been executed, the requested authority shall inform the applicant authority of the date and manner of notification.
4. If notification cannot be executed, the requested authority shall promptly inform the applicant authority, indicating the reasons.

CHAPTER 3

RECOVERY OR PRECAUTIONARY MEASURES

ARTICLE PVAT.18

Request for recovery

1. At the request of the applicant authority, the requested authority shall recover claims which are the subject of an instrument permitting enforcement in the territory of the Party of the applicant authority.
2. As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority, it shall inform the requested authority.

ARTICLE PVAT.19

Conditions governing a request for recovery

1. The applicant authority may not make a request for recovery if and for so long as the claim or the instrument permitting its enforcement are contested in the territory of the applicant authority.
2. Before making a request for recovery, the applicant authority shall first apply appropriate recovery procedures available in its own territory, except in the following situations:
 - (a) where it is obvious that there are no assets for recovery in the territory of that Party or that such procedures will not result in the payment of a substantial amount, and the applicant authority has specific information indicating that the person concerned has assets in the territory of the Party of the requested authority; or
 - (b) where recourse to such procedures in the territory of the Party of the applicant authority would give rise to disproportionate difficulty.

ARTICLE PVAT.20

Execution of the request for recovery

1. The requested authority shall recover the claim as if it were a claim of its own territory, making use of the powers and procedures provided under the laws, regulations or administrative provisions of that territory.

2. The requested authority shall keep the applicant authority informed of the recovery steps taken and of the amounts recovered.
3. The requested authority may grant payment facilities or instalments in accordance with its law and may charge interest or recovery costs, which it may retain.
4. Amounts recovered shall be transferred to the applicant authority promptly after deduction of any costs or charges which the requested authority could not recover in accordance with Article PVAT.26(2).

ARTICLE PVAT.21

Disputed claims and enforcement measures

1. Any dispute about the validity or amount of the claim shall be decided by the authorities of the Party of the applicant authority. Disputes about recovery actions taken in the territory of the Party of the requested authority shall be decided by its own competent bodies.
2. If the claim or enforcement instrument is contested, the requested authority shall suspend recovery for the disputed part until the decision becomes final, but the applicant authority may request that recovery measures be continued or that precautionary measures be taken to secure the debt.
3. When recovery continues for a contested claim at the request of the applicant authority and the claim is later annulled or reduced, the applicant authority shall reimburse any amounts unduly recovered and any related costs or compensation.

4. Where necessary to prevent non-recovery due to fraud, disappearance of assets or insolvency, the requested authority may take precautionary measures allowed under its national law, prior to receiving a request from the applicant authority under paragraph 2.

ARTICLE PVAT.22

Amendment or withdrawal of the request for recovery assistance

The applicant authority shall inform the requested authority immediately of any subsequent amendment to its request for recovery or of the withdrawal of its request, indicating the reasons for amendment or withdrawal.

ARTICLE PVAT.23

Request for precautionary measures

1. At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national law and in accordance with its administrative practices, to ensure recovery where a claim or the instrument permitting enforcement in the territory of the applicant authority is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the territory of the applicant authority, in so far as precautionary measures are possible in a similar situation under the law and administrative practices of the territory of the applicant authority.

The document drawn up for permitting precautionary measures in the territory of the applicant authority and relating to the claim for which mutual assistance is requested, if any, shall be attached to the request for precautionary measures in the territory of the requested authority. This document shall not be subject to any act of recognition, supplementing or replacement in the territory of the requested authority.

2. The request for precautionary measures may be accompanied by other documents relating to the claim.

ARTICLE PVAT.24

Limits to the requested authority's obligation

1. The requested authority may refuse or limit assistance where:
 - (a) recovery would cause serious economic or social hardship in its territory;
 - (b) the administrative effort or cost would be clearly disproportionate to the amount to be recovered; or
 - (c) the claim is more than five years old, counting from its due date in the territory of the Party of the applicant authority.
2. In exceptional cases, assistance may still be provided up to 10 years after the due date, if recovery remains legally possible in the territory of the Party of the applicant authority.
3. No assistance shall be requested for claims below GBP 5 000.

4. When assistance is refused or limited, the requested authority shall inform the applicant authority in writing and explain the reasons.

ARTICLE PVAT.25

Questions on limitation

1. Time limits for establishing and recovering claims shall be determined by the law of the Party of the applicant authority.
2. Any request for recovery or precautionary measures pursuant to this Protocol shall have the effect of suspending the period of limitation until the requested authority has executed the request.

ARTICLE PVAT.26

Costs

1. Each Party shall bear the costs it incurs in recovery assistance and shall not seek reimbursement from the other Party.
2. The requested authority may recover its costs directly from the debtor in accordance with its law. The applicant authority shall reimburse the requested authority for costs or losses resulting from unfounded requests.
3. In exceptional cases involving unusually high costs, the authorities may agree specific reimbursement arrangements.

PROTOCOL
ON THE TRACEABILITY,
COOPERATION TO FIGHT SMUGGLING OF TOBACCO
AND ADDITIONAL MEASURES RELATED TO TOBACCO PRODUCTS

ARTICLE PTOB.1

Information sharing

1. Without prejudice to other obligations by which they may be bound, the Union and the United Kingdom, in respect of Gibraltar, shall exchange regularly information concerning the amounts of tobacco products imported, sold or exported. This information shall include details relating to each of the following:
 - (a) the amount of raw or unmanufactured tobacco and tobacco products that have been imported into, sold in or exported from Gibraltar;
 - (b) for raw or unmanufactured tobacco: details of imports, specifying variety, origin, exporter, destination, importer, and weight in kilos; and

- (c) for tobacco products,
- (i) distinction between the different types of tobacco products, such as cigarettes, cigars, cigarillos, roll-your-own tobacco, pipe tobacco, waterpipe tobacco, oral tobacco, nasal tobacco, chewing tobacco and novel tobacco products, including heated tobacco products;
 - (ii) the volumes of the different types of tobacco products per brand and economic operator;
 - (iii) the trend in retail prices for each tobacco product type, indicating the weighted average price for the amount sold, minimum price and maximum price;
 - (iv) as regards wholesale or retail, for each tobacco product type, distinction between direct retail sales and duty-free sales to leisure cruises or other forms of transport.
2. Additionally, the Union and the United Kingdom, in respect of Gibraltar, shall share specific information referring to the efforts made to prevent and combat fraud and smuggling in Gibraltar, including the legislation adopted for this purpose, the administrative and judicial measures applied, the human and material resources employed to prevent and combat fraud and smuggling, and the quantity and value of the seizures made. Such information shall also extend to the efforts, in terms of combatting illicit trade and fraud, of applying the content and rules regarding traceability.
3. The information referred to in this Article shall be provided quarterly and will be exchanged within the first two months of the quarter following the quarter being reported.

ARTICLE PTOB.2

Cooperation and enforcement

1. The competent authorities within the Union and of the United Kingdom, in respect of Gibraltar, shall cooperate in identifying persons domiciled in their respective territories that, in proceedings undertaken in relation to smuggling of products originating in Gibraltar or destined for Gibraltar, may be found directly or indirectly responsible for such acts. The competent authorities shall also cooperate in investigations to determine the facts and attribution of responsibility.
2. The cooperation referred to in paragraph 1 shall be reciprocal and shall include:
 - (a) assistance in serving the documents indicated by the requesting authorities, issued by the requesting authorities, to all the addressees thereof;
 - (b) provision, at the request of the requesting authorities, of all individual information concerning assets that is relevant to taxation, for the purpose of collecting debts owed to the authorities;
 - (c) collection, at the request of the requesting authorities, of debts owed to the authorities, as documented in an instrument that enables enforcement and authorises collection actions;
 - (d) at the request of the authorities, based on the instrument referred to in point (c), adoption of appropriate measures to ensure collection of the debts owed to the authorities.

3. The appropriate measures set out in point (d) of paragraph 2, may include any of the following:

- (a) withholding any payments that the requested authority is due to make to the alleged debtor;
- (b) measures providing for the freezing of assets of an alleged debtor;
- (c) mechanisms or other measures prohibiting disposal, encumbrance or use of assets or exercise of rights having a monetary value;
- (d) any other measure provided for by law.

4. Notwithstanding the implementation of the measures set out in this Protocol, should evidence emerge that tobacco products are being smuggled into Gibraltar or the surrounding area from any part of Spain in significant quantities, the competent authorities within the Union and of the United Kingdom, in respect of Gibraltar, shall take effective action to prevent such illicit activity.

5. Administrative arrangements between the competent authorities within the Union and of the United Kingdom, in respect of Gibraltar, shall set out the practical modalities for the application of this Protocol.

ARTICLE PTOB.3

Tobacco traceability

1. The United Kingdom, in respect of Gibraltar, shall apply a tobacco traceability system which is equivalent to the Union system and covers:
 - (a) cigarettes and roll-your-own tobacco from the date of entry into force of this Agreement,
 - (b) all other tobacco products within a period of 24 months from the date of entry into force of this Agreement.

For the purposes of the tobacco traceability system, "manufacturer" means any natural or legal person that manufactures a tobacco product or has a tobacco product designed or manufactured, and markets that product under their name or trademark.

2. The competent authorities within the Union, in respect of the Spanish market, and of the United Kingdom, in respect of Gibraltar, shall provide each other, upon request, with any information collected by their respective systems. This information shall be provided in near-real time, and in any case no later than 24 hours from the receipt of the request. In exceptional circumstances, this period can be extended with the agreement of both Parties.

ARTICLE PTOB.4

Price differential

The price differential is laid down in Annex 24.

ARTICLE PTOB.5

Additional measures

1. The United Kingdom, in respect of Gibraltar, shall establish the requirements with respect to picture warnings to be used on tobacco products that are equivalent to those applicable in the Union market.
2. The United Kingdom, in respect of Gibraltar, shall prohibit the placing on the market of tobacco for oral use.
3. The United Kingdom, in respect of Gibraltar, shall prohibit cross-border distance sales of tobacco products to consumers.
4. By the date of entry into force of this Agreement, the competent authorities of the United Kingdom, in respect of Gibraltar, shall have in place a system that ensures the destruction of tobacco products confiscated in operations against illicit trade and smuggling of tobacco products and of tobacco products that do not comply with the requirements of point (a) of Article 258 of this Agreement. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain may set out the practical modalities for cooperation under this paragraph.