Subject: The EU-UK Withdrawal Agreement explained (slides).

Origin: European Commission, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU.

Remarks: These slides are for presentational and information purposes only.

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The EU-UK Withdrawal Agreement EXPLAINED
We have negotiated with the UK, never against the UK.

This deal is a necessary step to build trust between the UK and the EU. We need to build, in the next phase, an unprecedented and ambitious partnership.

The UK will remain our friend, our partner and our ally.

Michel Barnier, the European Commission’s Chief Negotiator, at the Special Meeting of the European Council (Article 50), 25 November 2018
WHAT IS THE WITHDRAWAL AGREEMENT?

The UK will leave the EU at midnight on 29 March 2019.

The Withdrawal Agreement ensures that this will happen in an orderly manner.

**Article 50.2 of the Treaty on European Union:**

"A Member State which decides to withdraw shall notify the European Council of its intention.

In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. […]"
A TIMELINE OF KEY EVENTS

PM Theresa May notifies the European Council of the UK’s intention to withdraw from the European Union

29 March 2017

Withdrawal notification

They first address three main withdrawal issues: citizens' rights, the financial settlement, and how to avoid a hard border on the island of Ireland.

19 June 2017

Start of Negotiations

This sets out the areas of agreement on the three main withdrawal issues and other separation issues.

8 December 2017

Joint Report

This draft translates into legal terms December's Joint Report. It highlights areas of agreement and disagreement.

19 March 2018

Draft Withdrawal Agreement

This outlines further progress at negotiators' level.

19 June 2018

Joint Statement

Negotiators reach a deal. The European Commission recommends to the European Council to find that decisive progress has been made, allowing the negotiations to be concluded.

14 November 2018

Finalised Withdrawal Agreement

EU leaders endorse the Withdrawal Agreement and adopt the Declaration on the Framework for the Future Relationship.

25 November 2018

Political Declaration
Steps to conclude the Agreement

European Council (Art.50)
Endorses the Withdrawal Agreement

European Commission
Proposes to the Council to authorise the signature and to conclude the Withdrawal Agreement

Council (Art.50)
Authorises signature of Withdrawal Agreement and refers to the European Parliament for consent procedure

European Parliament
Consent procedure

Council (Art.50)
Concludes the Withdrawal Agreement

The UK ratifies the Withdrawal Agreement according to its own constitutional requirements.

At 00:00 CET, the UK becomes a third country. The transition period begins.
EU priorities in the Brexit negotiations
as outlined in the European Council (Art.50) guidelines
of 29 April & 15 December 2017

"The Union's overall objective in these negotiations will be to preserve its interests, those of its citizens, its businesses and its Member States"

A phased approach
ensuring an orderly withdrawal

Protecting citizens who have built their lives on the basis of rights flowing from UK membership of the EU

Ensuring that the Union and the UK both respect the financial obligations resulting from the whole period of the UK’s membership in the Union

Continuing to support the goal of peace and reconciliation enshrined in the Good Friday Agreement, and to support and protect the achievements, benefits and commitments of the peace process on the island of Ireland
AN INCLUSIVE AND TRANSPARENT PROCESS

Together with the EU 27 Member States & the European Parliament:

The Agreement has been negotiated in light of the European Council (Art. 50) guidelines. Regular meetings were held with the 27 EU Member States at different levels, and with the Brexit Steering Group of the European Parliament.

Active listening:

Additional input from the EU’s consultative bodies and from stakeholders helped gather evidence.

Unprecedented transparency:

All documents shared with EU Member States, the Council, the European Parliament, and the UK were made public, as were European Council guidelines, papers defining the EU’s negotiating positions, and other relevant documents.

Michel Barnier frequently visited the EU 27 Member States for discussions with governments, parliaments, social partners and stakeholders.
Setting out cross-cutting clauses for the proper understanding and operation of the Withdrawal Agreement.

Protecting the life choices of over 3 million EU citizens in the UK, and over 1 million UK nationals in EU countries, safeguarding their right to live, work or study in their host country.

Ensuring an orderly withdrawal, notably through a smooth winding-down of ongoing procedures and arrangements applicable at the end of the transition period.

Providing for a transition period, until the end of 2020, which can be extended once, by up to one or two years.

Ensuring that the UK and the EU honour all financial obligations undertaken jointly while the UK was a Member State.

Ensuring continued application of EU law in and to the UK during that period (but without UK participation in EU institutions and governance structures).

Providing more time for administrations, businesses and citizens to adapt.
MAIN AREAS COVERED BY THE WITHDRAWAL AGREEMENT (2/2)

Governance (Part VI)
- Ensuring the effective management, implementation and enforcement of the agreement, including an effective dispute settlement mechanism.

Protocol on Ireland and Northern Ireland
- No hard border between Ireland and Northern Ireland.
- Continuation of the Common Travel Area arrangements between Ireland and the UK, and preservation of the Single Electricity Market.

Protocol on the Sovereign Base Areas (SBAs) in Cyprus
- Protecting the interests of Cypriots who live and work in the Sovereign Base Areas.

Protocol on Gibraltar
- Providing for administrative cooperation between Spain and the UK in respect of Gibraltar in a number of policy areas during the transition period and on the implementation of the citizens’ rights part of the Withdrawal Agreement.
Part I: COMMON PROVISIONS

- Provisions of the Withdrawal Agreement must have the same legal effects in the UK as in the EU and its Member States.

- UK courts must consistently interpret CJEU case law handed down until the end of the transition period, and pay due regard to CJEU case law handed down after that date.

- **Primacy:** UK judicial and administrative authorities are empowered to **disapply any inconsistent or incompatible national legislation.**

- **Direct effect:** concerned parties can invoke the Withdrawal Agreement directly before national courts, both in the UK and in the EU Member States.

References to Union law in the Withdrawal Agreement shall be understood as including new legislation or amendments entering into force during the transition period.
Part II: CITIZENS’ RIGHTS

The Withdrawal Agreement safeguards the residency rights of over 3 million EU citizens in the UK and over 1 million UK nationals in EU countries.

Personal scope: Who is covered?

**EU citizens** who were residing in the UK and **UK nationals** who were residing in one of the 27 EU Member States at the end of the transition period, where such residence is in accordance with EU law on free movement.

**Family members** that are granted rights under EU law (current spouses and registered partners, parents, grandparents, children, grandchildren and a person in an existing durable relationship), who do not yet live in the same host state as the EU citizen or the UK national will be able to join them in the future.

**Children** are protected, wherever they are born, before or after the UK's withdrawal.

**Frontier workers** and frontier self-employed persons are also protected in the countries where they work.
Which rights are protected?

EU citizens and UK nationals, as well as their family members can continue to live, work or study in their host country.

**Residence rights**

- The substantive conditions of residence are the same as those under current EU law on free movement.

**Social security**

- The persons concerned will maintain their right to healthcare, pensions and other social security benefits, and if they are entitled to a cash benefit from one country, they will in principle be entitled to receive it, even if they decide to live in another country.

They also benefit in full from the prohibition of any discrimination on grounds of nationality and the right to equal treatment compared to host state nationals.

**Workers and self-employed persons**

- Those covered by the Withdrawal Agreement will have the right to take up employment or to carry out an economic activity as a self-employed person. They will also keep all their workers’ rights based on EU law.

  The Agreement protects the rights of frontier workers or frontier self-employed persons in the countries where they work.

**Professional qualifications**

- Past decisions by the UK or EU Member States to recognise the professional qualifications of those covered by the Agreement will remain valid. Pending recognition procedures will be finalised and respected.
EU citizens in the UK and UK nationals in the EU

**EU CITIZENS IN THE UK**

- Total: 3.2 million citizens (of whom 2 million in employment)

**UK CITIZENS IN THE EU**

- Total: 1.2 million citizens (of whom 0.5 million in employment)

The figures used are estimates based on UK data (ONS, 2015) or UN data (United Nations, 2015). Actual numbers may vary.
Applicable procedures

**Constitutive system:**
A mandatory application is required as a condition for the enjoyment of rights under the Withdrawal Agreement.

*To be applied by the UK and EU Member States that choose to do so*

**Declaratory system:**
Those who comply with the conditions automatically become beneficiaries of the Withdrawal Agreement.

*To be applied by EU Member States that choose to do so*

→ Smooth and simple administrative procedures

→ Administrative costs must not exceed those imposed on nationals for issuing similar documents.
Those already holding a permanent residence document may exchange it free of charge.
Implementation and monitoring

The implementation and application of citizens’ rights in the EU will be monitored by the European Commission, and in the UK by an independent national authority.

The text of the Withdrawal Agreement on citizens’ rights can be relied upon directly by EU citizens in UK courts, and by UK nationals in the courts of the EU Member States.

UK courts may ask for preliminary rulings from the Court of Justice of the EU on the interpretation of the citizens’ part of the Withdrawal Agreement for eight years after the end of the transition period. For questions related to the application of UK settled status, that eight-year period will start running on 30 March 2019.
Part III: SEPARATION ISSUES

The Withdrawal Agreement provides the detailed provisions needed for the winding down of ongoing processes and arrangements related to:

- GOODS PLACED ON THE MARKET
- ONGOING MOVEMENT OF GOODS (CUSTOMS)
- PROTECTION OF INTELLECTUAL PROPERTY RIGHTS
- ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS
- ONGOING JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS
- DATA AND INFORMATION EXCHANGED BEFORE END OF TRANSITION
- ONGOING PUBLIC PROCUREMENT
- EURATOM
- ONGOING JUDICIAL AND ADMINISTRATIVE PROCEDURES
- FUNCTIONING OF THE EU INSTITUTIONS, AGENCIES AND BODIES
GOODS PLACED ON THE MARKET

Goods lawfully placed on the market in the EU or the UK before the end of the transition period may continue to freely circulate, without any need for product modifications or re-labelling.

Goods in the distribution chain at the end of the transition period:

- can reach their end-users without having to comply with any additional product requirements; they may also be put into service.

- will be subject to continued oversight by the market surveillance authorities of the Member States and the UK.

Exception: movement of live animals and animal products

As of the end of the transition period, these will be subject to applicable rules on imports and sanitary controls at the border, regardless of when they were placed on the market.
For customs, VAT and excise purposes, movements of goods which *begin* before the end of the transition period will be allowed to complete their movement under EU rules.

After the end of the transition period, **EU rules will continue to apply to cross-border transactions that started before the transition period** in terms of VAT rights and obligations for taxable persons, such as reporting obligations, payment and refund of VAT.
Existing EU unitary intellectual property rights (trademarks, design rights, plant variety rights etc.) will continue to be protected in the UK.

All categories of EU geographical indications remain protected

The full list of existing EU-approved geographical indications will be legally protected by the Withdrawal Agreement - unless and until a new agreement is concluded on the future relationship.

The UK will guarantee at least the same level of protection for the existing stock of geographical indications. This protection will be enforced through domestic UK legislation.

EU-approved geographical indications bearing names of UK origin (e.g. Welsh Lamb, Scotch Whisky) will continue to be protected in the EU.

All rights will be protected by the UK as national intellectual property rights. The conversion of the EU right into a UK right will be automatic, without any re-examination, and free of cost.
Ongoing UK police and judicial proceedings in criminal matters will be completed according to applicable EU rules.

How will this work in practice?

A person arrested by the UK on the basis of the European Arrest Warrant* will be surrendered to the Member State that was searching for this person.

A joint investigation team set up by the UK and other Member States will continue its investigations.

If an authority from an EU Member State receives a UK request to confiscate proceeds of crime or to provide information before the end of the transition period, it will be executed according to applicable EU rules.

* For the European Arrest Warrant, see rules applicable during transition
EU law in cross-border civil disputes will continue to apply to legal proceedings which began before the end of the transition period.

EU law on the recognition and enforcement of judgments will continue to apply in these cases.

How will ongoing judicial proceedings between companies be dealt with after the end of the transition period?

At the end of the transition period, litigation is pending between a Dutch company and a UK company before a UK court:

The UK court remains competent for hearing that case on the basis of EU law.

At the end of the transition period, a company is in legal proceedings against a UK company before a French court:

EU law on the recognition and enforcement of judgments continues to apply in the UK to the French court’s judgment.
After the end of the transition period, the UK will continue applying EU data protection rules to the current “stock of personal data”, until the EU, through an adequacy decision, establishes that the UK’s data protection rules provide safeguards which are essentially equivalent to those in the EU.
PART III: SEPARATION ISSUES

ONGOING PUBLIC PROCUREMENT

Pending public procurement procedures before the end of the transition period will be completed under the **same procedural and substantive rules**, in accordance with EU law.
<table>
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<tr>
<th>EURATOM</th>
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<tr>
<td><strong>The UK is fully responsible for its nuclear safeguards and is committed to a future regime that provides coverage and effectiveness equivalent to existing Euratom arrangements.</strong></td>
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</table>
| **Transfer of ownership of UK equipment and other property related to safeguards from Euratom to the UK.**
  The UK will be compensated at book value. |
| **Euratom’s international agreements will no longer apply to the UK.**
  The UK needs to engage with international partners in that context. |
| **The right of property of Special Fissile Material held in the UK by UK entities will be transferred from Euratom to the UK. For material held in the UK by EU27 undertakings, Euratom will maintain the right to approve future sale or transfer.** |
| **Ultimate responsibility for spent fuel and radioactive waste remains with the State where it was produced, in line with international conventions and European Atomic Energy Community legislation.** |
PART III: SEPARATION ISSUES

ONGOING JUDICIAL PROCEDURES

The Court of Justice of the European Union (CJEU) will remain competent for all judicial procedures registered before the end of the transition period. Those procedures should continue until a final binding judgment is given in accordance with Union rules, including any appeals or referrals. This allows for pending cases to be completed in an orderly way.

4 YEARS

New infringement cases against the UK may be brought before the CJEU for 4 years after the end of the transition period. These can concern breaches of EU law or non-compliance with EU administrative decisions before the end of the transition period or, in some cases, even after the end of the transition period.

The CJEU’s jurisdiction for these new cases is consistent with the principle that the termination of a Treaty shall not affect any right, obligation or legal situation of the parties created prior to its termination. This ensures legal certainty and a level playing field between the EU Member States and the UK, with respect to situations occurring when the UK was under EU law obligations.
All administrative procedures pending at the end of the transition period will continue to be handled according to EU rules.

This concerns procedures on issues such as competition and state aid, which were initiated before the end of the transition period by EU institutions, offices and agencies, and which concern the UK or UK natural or legal persons.

NEW CASES can be brought for a period of 4 years after the end of transition period in relation to:
- **State aid cases** related to aid granted before the end of the transition period; and
- **Investigations of the European Anti-Fraud Office (OLAF)** for facts that occurred before the end of the transition, or for customs debt arising after the end of the transition period.

During transition, the UK remains fully bound by EU law. Therefore, compliance with EU law and a level playing field with the other Member States should be ensured.
Current EU privileges and immunities will remain for activities that took place before the end of the transition period.

Both parties will continue to ensure compliance with obligations of professional secrecy. Classified information and other documents obtained while the UK was a Member State should retain the same level of protection as before the end of the transition period.
Part IV: TRANSITION

During the transition period, EU law continues to apply to and in the UK.

The EU will treat the UK as if it were a Member State, with the exception of participation in the EU institutions and governance structures.

The transition period will provide time to administrations, businesses and citizens to adapt.

And it will provide the EU and the UK with time to negotiate the future relationship.

Duration: from 30 March 2019 to 31 December 2020

This takes into account the UK’s request (around two years), and coincides with the current EU budgetary period (the Multiannual Financial Framework 2014-2020).
What happens during the transition period?

**EU law continues to apply**
to and in the UK as if it were a Member State

**UK remains in the EU Customs Union and the Single Market**
with all four freedoms, and all EU policies.

**UK remains bound by obligations stemming from all EU international agreements.**
In the area of trade, this means that third countries keep the same level of access to the UK market. The UK cannot apply new agreements in areas of EU exclusive competence, unless authorised to do so by the EU.

**UK is no longer represented in EU institutions, agencies and bodies**
During a possible extension of transition, as of January 2021 the UK will no longer participate in the Multiannual Financial Framework: it will only be able to participate in EU programmes as a third country.

Extending the transition period will require an appropriate financial contribution from the UK to the EU budget, to be decided by the Joint Committee.

Possible extension of the transition period

Can only be extended once

Must be decided before 1 July 2020

By mutual EU-UK agreement

Up to 1 or 2 years
UK's participation in EU foreign and defence policies during the transition period

The Common Foreign and Security Policy will apply to the United Kingdom during the transition period.

In particular, the UK will implement the EU’s sanctions regimes and support EU statements and positions in third countries and international organisations.

The UK may participate in EU military operations and civilian missions established under the Common and Security Defence Policy (CSDP), but without any leading capacity.

The UK will have the possibility to participate in projects of Common Foreign and Security Policy Agencies, including the European Defence Agency, but without having any decision-making role.

For example, the headquarters of the EU’s anti-piracy military operation, EU NAVFOR Somalia (Operation Atalanta), have been transferred from Northwood, UK, to Rota, Spain.
UK's participation in Justice and Home Affairs during the transition period

The EU’s Justice and Home Affairs policy will continue to apply to the UK during the transition period.

### European Arrest Warrant

The European Arrest Warrant will apply, but a Member State may refuse to surrender its own nationals to the UK in view of fundamental principles of its national law (Art. 185 of the Withdrawal Agreement).

### The UK’s right to OPT-IN and OPT-OUT

During the transition period, the UK will not have the right to opt-in to completely new measures.

The EU may nevertheless invite the UK to cooperate in relation to such new measures, under the conditions set out for cooperation with third countries.

The UK may choose to exercise its right to opt-in/opt-out with regard to measures amending, replacing or building upon those EU acts the UK was bound by during membership.
What are the consequences for fisheries?

The transition period provides clarity and predictability by extending the applicability of the Common Fisheries Policy to the UK (and the terms of relevant international agreements).

The UK will remain bound by decisions on fishing opportunities until the end of the transition period. It will be consulted at various stages of the annual decision-making process in respect of its fishing opportunities.

Upon invitation by the EU and to the extent permitted by the particular forum, the UK may attend - as part of the EU delegation - international consultations and negotiations in view of preparing its future membership in relevant international fora.
The financial provisions of the Withdrawal Agreement ensure that both the UK and the EU will honour all financial obligations undertaken while the UK was a member of the EU.

European Council guidelines 29 April 2017:

The European Council guidelines requested a single financial settlement covering the EU budget, the termination of the United Kingdom’s membership of all bodies or institutions established by the Treaties, and the participation of the UK in specific funds and facilities related to the Union policies.

The financial settlement covers all these points and settles the accounts.
The principles underlying the agreed methodology

1. No Member State should pay more or receive less because of the UK’s withdrawal from the EU.

2. The UK should pay its share of the commitments made during its membership.

3. The UK should neither pay more nor earlier than if it had remained a Member State.

NOTE: The agreement is not about the amount of the UK’s financial obligation, but about how to calculate it.
What has been agreed?

The agreed methodology allows honouring all joint commitments vis-à-vis the EU budget (2014-2020), including outstanding commitments at the end of 2020 and liabilities which are not matched by assets.

The UK will also continue to guarantee the loans made by the EU before its withdrawal and will receive back its share of any unused guarantees and subsequent recoveries following the triggering of the guarantees for such loans.

EU Trust Funds and Facility for Refugees in Turkey

The UK will honour all outstanding commitments of the EU Trust Funds and the Facility for Refugees in Turkey.

European Development Fund

The UK will remain party to the European Development Fund and will continue to contribute to the payments necessary to honour all commitments related to the current 11th EDF as well as the previous Funds.

European Central Bank

The UK’s paid-in capital in the European Central Bank will be reimbursed to the Bank of England.

European Investment Bank

The UK paid-in capital in the European Investment Bank will be reimbursed between 2019 and 2030 but will be replaced by an additional callable guarantee. The UK will maintain a guarantee of the stock of the EIB’s outstanding operations from the date of withdrawal until the end of their amortisation.
PART V: FINANCIAL SETTLEMENT

How do you calculate the UK’s share?

The UK will **contribute to the 2019 and 2020 budget** and its share will be a percentage calculated as if it had remained a Member State. For obligations **post-2020**, the UK share will be established as a ratio between the own resources provided by the UK in the period 2014-2020 and the own resources provided by all Member States (including the UK) in the same period. This means that the **British rebate** is included in the UK’s share.

What is the UK’s share in EU wealth (assets – buildings and cash)?

EU assets belong to the EU as the EU has its own legal personality and no Member State has any rights to EU assets. However, the UK’s part of the EU’s liabilities will be reduced by corresponding assets, because there is no need for financing liabilities which are covered by assets, so there is no need for the UK to finance them.

How long will the UK be paying for?

The UK will be paying **until the last long-term liability has been paid**. The UK will not be required to pay sooner than if it had remained a member of the EU. Both sides may agree to some simplification.

Will the UK pay the pension liabilities of the EU civil service?

The UK will pay its share of the financing of pensions and other employee benefits accumulated by end-2020. This payment will be made when it falls due, as it is the case for the remaining Member States.
What does this mean for EU projects & programmes?

All EU projects and programmes will be financed as foreseen under the current Multiannual Financial Framework (2014-2020).

This provides certainty to all beneficiaries of EU programmes, including UK beneficiaries, who will continue to benefit from EU programmes until their closure – except for financial instruments approved after withdrawal.
Part VI: Governance structure

The Withdrawal Agreement includes the institutional arrangements to ensure the effective management, implementation and enforcement of the agreement, including an appropriate dispute settlement mechanism.

In the event of a dispute on the interpretation of the Agreement, an initial political consultation would take place in a Joint Committee. If no solution is found, either party can refer the dispute to binding arbitration. The decision of the arbitration panel will be binding on the EU and the UK. In case of non-compliance, the arbitration panel may impose a payment to be paid to the aggrieved party. However, if there is a question of Union law, the panel is obliged to refer it to the CJEU.

If compliance is still not restored, the Agreement allows parties to suspend proportionately the application of the Withdrawal Agreement itself, except for citizens’ rights, or parts of other agreements between the Union and the UK. Such suspension is subject to review by the arbitration panel.
Dispute arises → Consultation in the Joint Committee → Agreement → Dispute resolved

No agreement

Either party can request:
- establishment of arbitration panel
- referral to CJEU through the arbitration panel

Arbitration panel: Question of Union law?

No - explain

Arbitration panel gives a reasoned assessment

Either party: request review?

No

Arbitration panel: Question of Union law?

No

Arbitration panel gives a reasoned assessment

Yes

Arbitration panel shall refer the question to CJEU for binding ruling

CJEU rules on the question

Arbitration panel resolves the dispute
PART VI: GOVERNANCE STRUCTURE

Panel finds infringement

Infringing party has to comply in reasonable period

Dispute about length of reasonable period: panel fixes it

At the end of the reasonable period, complainant can ask the panel to rule on compliance

Panel can impose lump sum or penalty payment

If infringing party does not pay within **1 month**, or pays but still fails to comply after **6 months**, complainant can suspend:
- any provision of the WA other than Part II
- parts of any other EU-UK Agreement

Dispute about compliance or proportionality of suspension: panel decides

Panel confirms compliance

No compliance

Panel confirms compliance

Dispute resolved
Protocol on Ireland/Northern Ireland

Objectives of the Protocol

- To ensure that there will be no hard border between Ireland and Northern Ireland.
- To set out the UK’s commitment to no diminution of rights as per the Good Friday (Belfast) Agreement 1998, and to protect North-South cooperation.
- To provide the possibility to continue the Common Travel Area arrangements between Ireland and the UK, and to preserve the Single Electricity Market on the island of Ireland.

The EU and the UK negotiators have agreed on how to avoid a hard border between Ireland and Northern Ireland.

Both will use their best endeavours to have a future agreement concluded before the end of the transition period.

Should this not be the case, the EU and the UK could jointly extend the transition period.

Alternatively, as of January 2021, the backstop solution for Ireland and Northern Ireland would apply, subject to a joint review mechanism.

This agreement is the insurance policy that guarantees that, whatever the circumstances, there will be no hard border between Ireland and Northern Ireland and that the Good Friday (Belfast) Agreement 1998 will be protected in all its dimensions, as well as North-South cooperation, and the all-island economy.
3 OPTIONS TO AVOID A HARD BORDER AFTER THE END OF THE TRANSITION PERIOD

a) A future agreement that eliminates the need for a hard border

b) An extension of the transition period to make sure a) is in place (only once and for a limited duration)

c) The 'backstop' unless and until a) is in place

A joint review mechanism that may conclude that the backstop is no longer necessary
What is the Single Customs Territory?

It comprises the customs territory of the EU and the customs territory of the UK.

This means that, in the scenario where the "backstop solution" would apply:

1. the UK will **align the tariffs and rules applicable to its customs territory** to the EU's external tariffs and rules of origin;

2. there will be **no tariffs, quotas and checks on rules of origin** between the EU and the UK, with the exception of **fishery and aquaculture products**;

3. the EU and the UK have agreed on **level playing field commitments** and appropriate enforcement mechanisms to ensure fair competition between the EU27 and the UK.

4. The **Union shall apply its trade defence policy and Generalised System of Preferences** to both parts of the Single Customs Territory; it shall consult the UK on any measures or actions which it considers taking.

Arrangements on fisheries will be negotiated as part of the overall future partnership.

The EU and the UK will use their best endeavours to agree on a fisheries and aquaculture agreement by 1 July 2020.

An essential condition for this Single Customs Territory to cover fisheries and aquaculture products will be to agree on access to waters and fishing opportunities.
Security & Safety controls
AT THE BORDER
- Pre-arrival declarations security controls (‘bomb in the box’)
- Live animals
- Products of animal origin
- Animal by-products not intended for human consumption
- Personal consignments of products of animal origin
- Plastic kitchenware from China and Hong Kong
- Fresh fruit and vegetables
- High risk food and feed of non-animal origin
- Okra, curry leaves from India
- Unauthorised GM rice in rice products from China
- Food and feed from Fukushima
- Guar gum from India
- Plant health
- Pelts of certain animal species originating from countries using leghold traps
- Invasive alien species

Financial Controls
AT CUSTOMS OFFICE OF IMPORT
- Risk based controls on the basis of customs declarations for all goods placed under a customs procedure (Union Customs Code)
- Classification of goods
- Origin/Proof of status free circulation
- Customs value
- Customs duties
- VAT
- Excise

Market Surveillance
AT CUSTOMS OFFICE OF IMPORT
- For industrial products
- Checks based on risk assessment, suspension of release for free circulation, decision by market surveillance authorities, refusal, or authorisation to release
- Ensure that only compliant products are placed on the Union market (Regulation (EC) no 765/2008
- 68 legal instruments harmonising EU rules on non-food products (e.g. type-approval of motor vehicles, safety of toys, ozone layer depleting substances, CE-marking, EU Ecolabel, pyrotechnic articles, explosives for civil uses, personal protective equipment)
- Specific rules for medicinal products for human and veterinary use

Customs in cooperation with Market Surveillance Authorities

Customs Union
Will Northern Ireland remain aligned to EU rules and regulations?

In the scenario where the "backstop solution" would apply, the UK in respect of Northern Ireland will maintain specific regulatory alignment with the EU.

To avoid a hard border on the island of Ireland, and to ensure that Northern Irish businesses can bring products into the EU's Single Market without restriction, Northern Ireland will remain aligned to a limited set of EU rules that are indispensable for avoiding a hard border, namely:

- legislation on VAT and excise in respect of goods
- legislation on product requirements
- sanitary rules for veterinary controls ("SPS rules")
- rules on agricultural production/marketing
- state aid rules

The EU's Customs Code will also continue to apply in Northern Ireland within the overall context of the Single Customs Territory between the EU and the UK.
How will the backstop work between Great Britain and Northern Ireland?

In order to ensure that Northern Irish businesses can bring products into the EU’s Single Market without restrictions and without checks at the border between Ireland and Northern Ireland, there would be a need for checks on goods travelling from the rest of the UK to Northern Ireland.

There would be a need for some compliance checks with EU standards, consistent with risk, to protect consumers, economic traders and businesses in the Single Market.

The EU and the UK have agreed to carry out these checks in the least intrusive way possible, building. The scale and frequency of the checks could be further reduced through future agreements between the EU and the UK.
What "level playing field" measures have been agreed?

Economic interconnectedness and geographic proximity are key elements to take into account when regulating the proper functioning of open and fair competition in the single EU-UK customs territory.

The Protocol binds the UK to substantive rules, based on EU and international standards, adequate mechanisms for implementation, as well as enforcement and dispute settlement mechanisms.

Provisions on environment, labour and social protection are based on the principle of non-regression from current levels of protection under EU and international standards; dynamic alignment applies in state aid.
<table>
<thead>
<tr>
<th>Level playing field measures</th>
<th>Substantive rules</th>
<th>Enforcement in UK</th>
<th>Dispute settlement</th>
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<tr>
<td><strong>STATE AID</strong> affecting EU/NI trade affecting EU/GB trade</td>
<td>Dynamic alignment to EU rules</td>
<td>European Commission</td>
<td>CJEU</td>
</tr>
<tr>
<td></td>
<td>Dynamic alignment to EU rules</td>
<td>UK independent authority</td>
<td>Joint Committee and arbitration</td>
</tr>
<tr>
<td><strong>COMPETITION</strong></td>
<td>Reflecting EU law and linked to evolution thereof</td>
<td>UK independent authority</td>
<td>Joint Committee and arbitration on UK enforcement</td>
</tr>
<tr>
<td><strong>TAXATION</strong></td>
<td>Commitment to good tax governance</td>
<td></td>
<td>Joint Committee</td>
</tr>
<tr>
<td></td>
<td>'Freezing' of UK law implementing 3 directives*</td>
<td>UK authorities</td>
<td>Joint Committee and arbitration</td>
</tr>
<tr>
<td></td>
<td>UK commits to Code of Conduct</td>
<td></td>
<td>Joint Committee</td>
</tr>
<tr>
<td><strong>ENVIRONMENT</strong></td>
<td>Non-regression, 'freezing' 2030 quantitative targets</td>
<td>UK independent authority</td>
<td>Joint Committee and arbitration on UK enforcement</td>
</tr>
<tr>
<td><strong>LABOUR AND SOCIAL STANDARDS</strong></td>
<td>Non-regression</td>
<td>UK authorities</td>
<td>Joint Committee and arbitration on UK enforcement</td>
</tr>
</tbody>
</table>
### STATE AID

Two situations: **A:** Aid affects EU/Northern Ireland trade -  **B:** Aid affects EU/Great Britain trade

#### SUBSTANTIVE RULES

- UK applies EU state aid rules in full.
- Dynamic alignment.

#### ENFORCEMENT IN THE UK

**A:** No need: European Commission continues to enforce State aid rules directly as part of the backstop solution if it applies. CJEU remains competent.

**B:** UK to set up an independent enforcement authority, with the same powers of the European Commission and under the review of UK national courts. Cooperation procedure between the independent authority and the European Commission. The latter will also have legal standing before UK courts.

#### DISPUTE SETTLEMENT

**A:** No need, given control by the European Commission and the CJEU.

**B:** Dispute resolution mechanism, including arbitration with CJEU reference, and sanctions. Possibility of adopting interim measures.
Level playing field measures (2/5)

COMPETITION
(excl. state aid)

**SUBSTANTIVE RULES**

Replication of TFEU rules on:
- distortive agreements,
- abuse of dominance,
- monopolies

Equivalent norms on control of concentrations

EU acquis and case-law as sources of interpretation

Requirement to respect international standards on State Owned Enterprises and ensure regulation is non-discriminatory.

**ENFORCEMENT IN THE UK**

Requirement to translate TFEU rules into domestic law and have a domestic independent competition enforcement authority (= today, CMA) and judicial review system.

Requirement to have effective monitoring and enforcement of obligations.

**DISPUTE SETTLEMENT**

Substantive rules subject to dispute resolution at Joint Committee, excluded from arbitration.

Dispute resolution with arbitration on UKs commitment for monitoring and enforcement.
**Level playing field measures (3/5)**

**TAXATION**

**COMMITMENT**

Good tax governance clause and implementation of global tax/OECD BEPS standards.

UK reaffirms commitment to curb harmful tax measures and EU Code of Conduct on business taxation.

UK continues to apply domestic law transposing EU Directives on: exchange of tax information; anti-tax avoidance rules; and Country-by-Country-Reporting by credit institutions / investment firms.

**ENFORCEMENT IN THE UK**

Application of good tax governance principles in policy making by UK authorities.

Application of the EU Code of Conduct principles in policy making by UK authorities.

Application of precisely defined legislative provisions comes with the usual domestic implementation mechanism (by UK tax authorities).

**DISPUTE SETTLEMENT**

All matters related to good tax governance clause and the implementation of the Code of Conduct to be discussed at Joint-Committee.

Full dispute settlement, including arbitration on UK application of retained provisions of domestic law transposing EU Directives (including with reference to ECJ).
## Level playing field measures (4/5)

### ENVIRONMENT

### Substantive Rules

- Non regression - no lowering of level of protection below EU standards at end of transition in all key areas.
- Respect of key environmental principles, including precautionary principle, "polluter pays" principle.
- Specific targets based on EU law for key areas, e.g. industrial emissions, national emissions ceilings.
- Necessary measures to meet both parties' commitments to international agreements on climate change, including the Paris Agreement.
- The UK will implement a system of carbon pricing at least as effective as the EU Emission Trading Scheme for greenhouse emission allowances.

### Enforcement in the UK

- UK commitment to effective enforcement of the non-regression commitment and of its laws, regulations and practices reflecting the common standards.
- UK commitment to the maintenance of an effective administrative and judicial proceedings and effective remedies.
- UK to set-up a domestic independent body with monitoring, reporting, oversight and enforcement powers of its environmental commitments, equivalent to those of the Commission.

### Dispute Settlement

- Substantive rules subject to dispute resolution at Joint Committee.
- Full dispute resolution including arbitration on effectiveness of UK's enforcement system at meeting non-regression commitments and on the set up and conduct of the independent body.

The UK will implement a system of carbon pricing at least as effective as the EU Emission Trading Scheme for greenhouse emission allowances.
**Level playing field measures (5/5)**

<table>
<thead>
<tr>
<th>COMMITMENT</th>
<th>ENFORCEMENT IN THE UK</th>
<th>DISPUTE SETTLEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non regression - no lowering of level of protection below EU standards at end of transition in the area of labour and social protection and in relation to fundamental rights at work, occupational health and safety, fair working conditions and employment standards, information and consultation rights at company level and restructuring..</td>
<td>UK commitment to effective enforcement of the non-regression commitment and of its laws, regulations and practices reflecting the common standards</td>
<td>Substantive rules subject to dispute resolution at Joint Committee.</td>
</tr>
<tr>
<td>Commitment to effective implementation of the International Labour Organisation Conventions and the Council of Europe’s Social Charter.</td>
<td>UK commitment to the maintenance of an effective system of labour inspections, effective administrative and judicial proceedings and effective remedies.</td>
<td>Full dispute resolution, including arbitration on effectiveness of UK’s enforcement system at meeting non-regression commitments and on the set up and conduct of the independent body.</td>
</tr>
</tbody>
</table>
Review mechanism

If at any time after the transition period, the EU or the UK considers that this Protocol, in whole or in part, is no longer necessary, it may notify the other party, setting out its reasons.

The Joint Committee will consider the notification and may seek an opinion from institutions created by the Good Friday (Belfast) Agreement 1998.

Following discussions in the Joint Committee, the EU and the UK may decide jointly that the Protocol, in whole or in part, is no longer necessary to achieve its objectives.
What else does the Protocol contain beyond the "backstop"?

The Protocol on Ireland and Northern Ireland contains provisions that address a number of other unique circumstances on the island of Ireland, most notably:

<table>
<thead>
<tr>
<th>THE COMMON TRAVEL AREA BETWEEN IRELAND AND THE UNITED KINGDOM</th>
<th>UK COMMITMENT TO NO DIMINUTION OF RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY</th>
<th>THE SINGLE ELECTRICITY MARKET</th>
<th>NORTH-SOUTH COOPERATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>and its associated rights and privileges can continue to apply in conformity with EU law, in particular on free movement of EU citizens.</td>
<td>as set out in the Good Friday (Belfast) Agreement 1998, including with regard to EU law on non-discrimination. This commitment will be implemented and monitored through dedicated mechanisms.</td>
<td>can be preserved on the island of Ireland.</td>
<td>can continue, including in the areas of environment, health, agriculture, transport, education and tourism, as well as in the areas of energy, telecommunications, broadcasting, inland fisheries, justice and security, higher education and sport.</td>
</tr>
</tbody>
</table>
Protocol on the Sovereign Base Areas (SBAs) in Cyprus

The Protocol protects the interests of Cypriots who live and work in the Sovereign Base Areas following the UK's withdrawal from the Union.

The aim of the Protocol is to ensure that EU law, in the areas stipulated in Protocol 3 to Cyprus's Act of Accession to the Union, will continue to apply in the Sovereign Base Areas, with no disruption or loss of rights especially for the thousands of Cypriot civilians living and working in the Sovereign Base Areas.

This applies to a number of policy areas such as customs, taxation, goods, agriculture, fisheries and veterinary and phytosanitary rules.

The territory of the Sovereign Base Areas will continue to be part of the customs territory of the Union. Goods produced in the Sovereign Base Areas will be considered to be goods in free circulation in the EU.

The Protocol confers responsibility on the Republic of Cyprus for the implementation and enforcement of Union law in relation to most of the areas covered, with the exception of aspects related to the application of the Green Line Regulation.
The European Council guidelines of 29 April 2017 set out that "no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom."

As a result of bilateral negotiations between Spain and the UK, the Protocol on Gibraltar forms a package with bilateral memoranda of understanding between Spain and UK in respect of Gibraltar.

This concerns bilateral cooperation on citizens’ rights, tobacco and other products, environment, police and customs matters, as well as a bilateral agreement in relation to taxation and the protection of financial interests.

A specialised committee is also established for overseeing the application of this Protocol.

The Protocol provides for administrative cooperation between Spain and the UK in respect of Gibraltar in a number of policy areas during the transition period, and on the implementation of the citizens’ rights part of the Withdrawal Agreement.
What does the Withdrawal Agreement say on the future relationship negotiations?

The EU and the UK will use their best endeavours to negotiate the agreements on the future relationship expeditiously.

They both commit to act in good faith.

The common goal is to make sure that such agreements apply from the end of the transition period to the extent possible.

The use of the best endeavours must fully respect the legal orders of the EU and the UK.

This means that negotiations will only start once the UK will have left the EU.