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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: Annexes to COUNCIL DECISION on the position to be taken on behalf of the European Union within the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards a decision to be adopted, and recommendations and joint and unilateral declarations to be made

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**ANNEX 1**

DRAFT

**DECISION No .../2023  
OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT  
ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY**

**of ... 2023**

**laying down arrangements relating to the Windsor Framework**

THE JOINT COMMITTEE,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>1</sup> ('the Withdrawal Agreement'), and in particular Article 164(5)(d) thereof, Article 5(2) of the Protocol on Ireland/Northern Ireland ('the Protocol'), as well as Article 164(5)(c) of the Withdrawal Agreement and the fifth paragraph of Article 8 of the Protocol,

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<sup>1</sup> OJ L 29, 31.1.2020, p. 7.

Whereas:

- (1) Pursuant to Article 166(2) of the Withdrawal Agreement, the decisions adopted by the Joint Committee established under Article 164(1) thereof ('the Joint Committee') are binding on the Union and the United Kingdom. The Union and the United Kingdom are to implement such decisions, which have the same legal effect as the Withdrawal Agreement.
- (2) Under Article 182 of the Withdrawal Agreement, the Protocol forms an integral part of that Agreement.
- (3) Article 164(5)(d) of the Withdrawal Agreement empowers the Joint Committee to adopt decisions amending the Withdrawal Agreement, provided that such amendments are necessary to correct errors, to address omissions or other deficiencies, or to address situations unforeseen when the Agreement was signed, and provided that such decisions do not amend essential elements of that Agreement.
- (4) The Union and the United Kingdom have made a Joint Declaration in the Joint Committee to the effect that, wherever relevant in their dealings under the Withdrawal Agreement, they will, consistent with the requirements of legal certainty, refer to the Protocol as amended as the 'Windsor Framework', and that they may in the same way refer to the Protocol as amended in their domestic legislation.

- (5) The Union and United Kingdom recall their shared commitment that the Good Friday or Belfast Agreement of 10 April 1998 between the Government of the United Kingdom, the Government of Ireland and the other participants in the multi-party negotiations ('the 1998 Agreement'), which is annexed to the British-Irish Agreement of the same date, including its subsequent implementation agreements and arrangements, should be protected in all its parts.
- (6) Having regard to the specific circumstances of Northern Ireland, facilitations referred to in Article 6(2) of the Protocol should include specific arrangements for the movement of goods within the United Kingdom's internal market, consistent with Northern Ireland's position as part of the customs territory of the United Kingdom in accordance with the Protocol, where the goods are destined for final consumption or final use in Northern Ireland and where the necessary safeguards are in place to protect the integrity of the Union's internal market and customs union.
- (7) An emergency brake mechanism should be established enabling Members of the Legislative Assembly in Northern Ireland, under each of the conditions set out in paragraph 1 of the Unilateral Declaration by the United Kingdom on involvement of the institutions of the 1998 Agreement annexed to this Decision, to address significant impacts specific to everyday lives of communities arising from the application in Northern Ireland of provisions of Union law, as amended or replaced by future Union acts.

- (8) As regards VAT and excise, having regard to the specific circumstances of Northern Ireland, including its integral place in the United Kingdom's internal market, certain amendments to Annex 3 to the Protocol should be made. These amendments should not lead to fiscal fraud risks or to any potential distortion of competition. Their implementation in Northern Ireland, and in particular the implementation of the special scheme for distance sales of goods imported from third territories or third countries, should neither create risks to the Union's internal market, and the United Kingdom's internal market, nor create undue burdens for businesses operating in Northern Ireland.
- (9) In order to clarify the scope of application of certain acts already listed in Annex 3 to the Protocol, two notes should be added to that Annex. In order to ensure that any other notes could be added to that Annex at any point in time, such possibility should be provided in this Decision.
- (10) As regards the movement of goods, Article 5(2) of the Protocol empowers the Joint Committee to adopt decisions establishing the conditions under which processing is not to be considered as commercial processing and the criteria for considering that a good brought into Northern Ireland from outside the Union is not at risk of subsequently being moved into the Union.

- (11) It is desirable to improve the operation of the schemes set out in Joint Committee Decision No 4/2020, including in relation to goods sent in parcels to Northern Ireland from other parts of the United Kingdom, which will enable provision to be made for far reaching facilitations in the area of customs.
- (12) In accordance with Article 175 of the Withdrawal Agreement, the Union and the United Kingdom will take measures necessary to comply rapidly and in good faith with an arbitration panel ruling concerning the conditions for suspension, termination and becoming applicable of provisions of this Decision.
- (13) Joint Committee Decision No 4/2020 should be replaced by Section 2 of this Decision.
- (14) As regards the establishment of an enhanced coordination mechanism related to the functioning of the Protocol in the areas of VAT and excise, in accordance with Article 164(5)(c) of the Withdrawal Agreement, the Joint Committee may *inter alia* change the tasks assigned to specialised committees.
- (15) Pursuant to Article 8, fourth paragraph, of the Protocol, the Joint Committee is to regularly discuss the implementation of that Article, including as concerns the reductions and exemptions provided for in the provisions referred to in the first paragraph of that Article, and is, where appropriate, to adopt measures for its proper application, as necessary.

- (16) Under Article 8, fifth paragraph, of the Protocol, the Joint Committee may review the application of that Article, taking into account Northern Ireland's integral place in the United Kingdom's internal market, and may adopt appropriate measures as necessary.
- (17) To ensure the effectiveness of Article 8 of the Protocol and in particular to take account of Northern Ireland's integral place in the United Kingdom's internal market, the Union and the United Kingdom should assess in a structured manner any issues arising from the implementation and application of Article 8, including in particular the potential impact on Northern Ireland of any future policy and regulatory initiatives in the Union and the United Kingdom in the areas of VAT and excise concerning goods.
- (18) It is therefore appropriate to establish an enhanced coordination mechanism to allow the Union and the United Kingdom to identify and discuss any issues relating to the functioning of the Protocol in the areas of VAT and excise and to propose appropriate action, as necessary. To that end, specific meetings of the Specialised Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland established by Article 165 (1)(c) of the Withdrawal Agreement should be convened to discuss VAT and excise concerning goods as necessary. These meetings will be known as the Enhanced Coordination Mechanism on VAT and excise,

HAS ADOPTED THIS DECISION:

**SECTION 1**  
**AMENDMENTS TO THE PROTOCOL**

*Article 1*

In Article 6(2) of the Protocol, the following sentence shall be inserted after the first sentence:

‘This includes specific arrangements for the movement of goods within the United Kingdom’s internal market, consistent with Northern Ireland’s position as part of the customs territory of the United Kingdom in accordance with this Protocol, where the goods are destined for final consumption or final use in Northern Ireland and where the necessary safeguards are in place to protect the integrity of the Union’s internal market and customs union.’.



## *Article 2*

In Article 13 of the Protocol, after paragraph (3), the following paragraph shall be added:

‘3a. By derogation from paragraph 3, and subject to the fourth subparagraph of this paragraph, a Union act covered by this paragraph that has been amended or replaced by a specific Union act (“specific Union act”) shall not apply as amended or replaced by the specific Union act as from two weeks after the day on which the United Kingdom has notified the Union in writing through the Joint Committee that the procedure set out in the unilateral declaration on involvement of the institutions of the 1998 Agreement made by the United Kingdom, as annexed as Annex I to Joint Committee Decision No .../2023<sup>1</sup>, has been followed. Such notification shall be made within two months of the publication of the specific Union act and shall include a detailed explanation of the United Kingdom’s assessment as regards the conditions referred to in the third subparagraph of this paragraph, as well as of the procedural steps taken within the United Kingdom prior to the notification.

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<sup>1</sup> OJ: please insert full title and OJ reference of this Joint Committee Decision.

If the Union considers that the United Kingdom's explanation is insufficient as regards the circumstances referred to in the third subparagraph of this paragraph, it may request further explanation within two weeks as of the date of notification and the United Kingdom shall provide that further explanation within two weeks as of the date of the request. In that case the Union act covered by this paragraph shall not apply as amended or replaced by the specific Union act as from the third day after the day on which the United Kingdom has provided that further explanation.

The United Kingdom shall make the notification referred to in the first subparagraph of this paragraph only where:

- (a) the content or scope of the Union act as amended or replaced by the specific Union act significantly differs, in whole or in part, from the content or scope of the Union act as applicable before being amended or replaced; and
- (b) the application in Northern Ireland of the Union act as amended or replaced by the specific Union act, or of the relevant part thereof as the case may be, would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

Where the conditions set out in points (a) and (b) are met in relation only to a part of the Union act as amended or replaced by the specific Union act, the notification shall be made only in respect of that part, provided that the latter is severable from the other parts of the Union act as amended or replaced by the specific Union act. If the latter is not severable, the notification shall be made in respect of the smallest severable element of the Union act as amended or replaced by the specific Union act containing the part in question.

Where the notification is made in respect of a part of the Union act as amended or replaced by the specific Union act, in accordance with the second sentence of the previous subparagraph, the Union act shall not apply as amended or replaced by the specific Union act only in respect of that part.

Where the notification referred to in the first subparagraph of this paragraph has been made, paragraph 4 shall apply with regard to the Union act as amended or replaced by the specific Union act; in case the Union act as amended or replaced by the specific Union act is added to this Protocol, this shall be in lieu of the Union act before being amended or replaced.

This paragraph covers Union acts referred to in the first indent of heading 1 and headings 7 to 47 of Annex 2 to this Protocol, and the third subparagraph of Article 5(1) thereof.?

### *Article 3*

Annex 3 to the Protocol shall be amended as follows:

- (1) under the heading '1. Value Added Tax', following the entry 'Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax', the following note shall be inserted:

'As regards goods supplied and installed in immovable property located in Northern Ireland by taxable persons, the United Kingdom in respect of Northern Ireland may apply reduced rates, rates lower than 5 % or an exemption with deductibility of the VAT paid at the preceding stage.

The United Kingdom in respect of Northern Ireland shall not be required to apply the third subparagraph of Article 98(1) and the first subparagraph of Article 98(2) of Directive 2006/112/EC and may therefore apply reduced VAT rates to supplies covered in more than 24 points in Annex III and may apply a reduced rate lower than the minimum of 5 % and an exemption with deductibility of the VAT paid at the preceding stage to supplies covered in more than seven points in Annex III of Directive 2006/112/EC.

The United Kingdom in respect of Northern Ireland shall not be required to apply the special scheme on small enterprises, laid down in Title XII, Chapter 1, of Directive 2006/112/EC, as amended by Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises<sup>1</sup>, to and in the United Kingdom in respect of Northern Ireland, and may therefore apply any exemption scheme to taxable persons whose annual turnover, attributable to supplies of goods and services, complies with the rules on the threshold of turnover laid down in Article 284(1), Article 288 and Article 288a(1) and (3) of Directive 2006/112/EC, as amended by Council Directive (EU) 2020/285. The equivalent in pounds sterling of the threshold of turnover referred to in Article 284(1) shall be calculated by applying the exchange rate on the day following the date of entry into force of Directive (EU) 2020/285, as published by the European Central Bank. To take account of variations in this exchange rate over time, a maximum difference of 15 % shall be allowed when calculating the equivalent of the threshold of EUR 85 000.

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<sup>1</sup> OJ L 62, 2.3.2020, p. 1.

The United Kingdom in respect of Northern Ireland shall not be required to apply the special scheme for distance sales of goods imported from third territories or third countries, laid down in Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, as regards distance sales of goods from Great Britain to Northern Ireland, provided that the goods are subject to final consumption in Northern Ireland and that value added tax has been charged in the United Kingdom.’;

- (2) under the heading ‘2. Excise’, following the entry ‘Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages’, the following note shall be inserted:

‘The United Kingdom in respect of Northern Ireland shall not be required to apply Article 3(1) and Articles 9, 13, 18 and 21 of Council Directive 92/83/EEC and may therefore apply excise duty rates on alcohol and alcoholic beverages always on the basis of alcoholic strength and may apply reduced duty rates to alcoholic beverages packaged in large draught containers served for immediate consumption in hospitality venues, provided such duty rates in the United Kingdom in respect of Northern Ireland are in no case, even after any applicable relief, below the duty minima rates as laid down in Article 3(1) and Articles 4, 5 and 6 of Directive 92/84/EEC, and shall apply no less favourably to products supplied from the Union as they do to like domestic products.

The United Kingdom in respect of Northern Ireland shall not be required to apply Articles 4, 9a, 13a, 18a, Article 22(1) to (5) and Article 23a of Council Directive 92/83/EEC and may therefore define small producers and set reduced duty rates to alcohol and alcoholic beverages produced by small producers, provided that such reduced duty rates are in no case, even after any applicable relief, lower than the duty minima rates as laid down in Article 3(1) and Articles 4, 5 and 6 of Directive 92/84/EEC, and that the annual production of the small producers entitled to benefit from the application of the reduced duty rate is in no case higher than the production thresholds laid down in the first indents of Articles 4(1), 9a(1), 13a(1), 18a(1) and 22(1) of Council Directive 92/83/EEC. The mutual recognition procedures laid down under Articles 4(3), 9a(3), 13a(5), 18a(4), 22(3) and 23a(3) of Directive 92/83/EEC shall not apply between Member States and the United Kingdom in respect of Northern Ireland.’

#### *Article 4*

1. In Annex 3 to the Protocol, under the heading ‘1. Value Added Tax’ any notes other than those laid down in point 1 of Article 3 of this Decision as will be adopted by the Joint Committee shall be inserted, provided that such notes specify the manner in which the Union acts listed in section 1 of Annex 3 apply to and in the United Kingdom in respect of Northern Ireland. Such notes shall ensure that there is no negative impact on the Union’s internal market in the form of fiscal fraud risks nor any potential distortion of competition.

2. In Annex 3 to the Protocol, under the heading ‘2. Excise’ any notes other than those laid down in point 2 of Article 3 of this Decision as will be adopted by the Joint Committee shall be inserted, provided that such notes specify the manner in which the Union acts listed in section 2 of Annex 3 apply to and in the United Kingdom in respect of Northern Ireland. Such notes shall ensure that there is no negative impact on the Union’s internal market in the form of fiscal fraud risks nor any potential distortion of competition.

## **SECTION 2**

### **DETERMINATION OF GOODS NOT AT RISK AND REPEAL OF DECISION NO 4/2020**

#### *Article 5*

#### *Subject matter*

This Section sets out rules for implementing Article 5(2) of the Protocol as regards:

- (a) the conditions for considering that a good brought into Northern Ireland from outside the Union will not be subject to commercial processing in Northern Ireland;
- (b) the criteria for considering that a good brought into Northern Ireland from outside the Union is not at risk of subsequently being moved into the Union.



*Article 6*

*Non-commercial processing*

For the purposes of point (a) of the first subparagraph, and of the third subparagraph of Article 5(2) of the Protocol, the processing of a good shall be considered as being non-commercial, where:

- (a) the person who lodges a declaration for release for free circulation in respect of that good or on whose behalf such declaration is lodged ('importer') had a total annual turnover of less than GBP 2 000 000 in its most recent complete financial year; or
- (b) the processing is in Northern Ireland and is for the sole purpose of:
  - (i) the sale of food to an end consumer in the United Kingdom;
  - (ii) construction, where the processed goods are to form a permanent part of a structure that is constructed and located in Northern Ireland by the importer or one subsequent entity;
  - (iii) direct provision to the recipient of health or care services in Northern Ireland by the importer or one subsequent entity;
  - (iv) not for profit activities in Northern Ireland by the importer or one subsequent entity, where there is no subsequent sale of the processed good; or
  - (v) the final use of animal feed on premises located in Northern Ireland by the importer or one subsequent entity.

*Article 7*

*Criteria for considering goods not to be at risk of subsequently being moved into the Union*

1. A good shall be considered not to be at risk of subsequently being moved into the Union, where it is not considered to be subject to commercial processing in accordance with Article 6 of this Decision, and where:
  - (a) in the case of goods brought into Northern Ireland from another part of the United Kingdom by direct transport:
    - (i) the duty payable according to the Union Common Customs Tariff is equal to zero; or
    - (ii) the importer has been authorised in accordance with Articles 9 to 11 of this Decision to bring that good into Northern Ireland for its sale to, or final use by, end consumers located in the United Kingdom, including where that good has been subject to non-commercial processing in accordance with Article 6 of this Decision before its sale to, or final use by, end consumers; or
    - (iii) it is sent in a parcel, and
      - (aa) it is of a non-commercial nature and is sent by a private individual to another private individual residing in Northern Ireland; or

(bb) it is sent by an economic operator through a carrier authorised in accordance with Article 12 of this Decision to a private individual residing in Northern Ireland and is exclusively for personal use.

(b) in the case of goods brought into Northern Ireland by direct transport other than from the Union or another part of the United Kingdom:

(i) the duty payable according to the Union Common Customs Tariff is equal to or less than the duty payable according to the customs tariff of the United Kingdom; or

(ii) the importer has been authorised in accordance with Articles 9 to 11 of this Decision to bring that good into Northern Ireland for its sale to, or final use by, end consumers located in Northern Ireland (including where that good has been subject to non commercial processing in accordance with Article 6 of this Decision before its sale to, or final use by, end consumers), and the difference between the duty payable according to the Union Common Customs Tariff and the duty payable according to the customs tariff of the United Kingdom is lower than 3% of the customs value of the good.

2. Paragraphs 1(a)(ii), 1(a)(iii) and 1(b)(ii) shall not apply to goods subject to trade defence measures adopted by the Union.

3. For the purposes of this Decision, ‘parcel’ means a package containing:
- (a) goods, other than an item of correspondence, with a total gross weight not exceeding 31,5 kg; or
  - (b) a single item good, other than an item of correspondence, with a total gross weight not exceeding 100 kg, in relation to a commercial transaction.

*Article 8*

*Determination of the applicable duties*

For the purposes of Article 7(1)(a)(i) and Article 7(1)(b) of this Decision, the following rules shall apply:

- (a) the duty payable according to the Union Common Customs Tariff to a good shall be determined in accordance with the rules set out in the Union customs legislation;
- (b) the duty payable according to the customs tariff of the United Kingdom to a good shall be determined in accordance with the rules set out in the customs legislation of the United Kingdom.

## *Article 9*

### *Authorisation for the purposes in Article 7*

1. For the purposes of Article 7(1)(a)(ii) and Article 7(1)(b)(ii) of this Decision, an application for an authorisation to bring goods into Northern Ireland by direct transport for sale to, or final use by, end consumers shall be submitted to the competent authority of the United Kingdom.
2. The application for the authorisation referred to in paragraph 1 shall contain information on the applicant's business activities, on the goods typically brought into Northern Ireland, as well as a description of the type of records, systems and controls put in place by the applicant to ensure that the goods covered by the authorisation are properly declared for customs purposes and evidence can be provided to support the undertaking in Article 10(b) of this Decision. The trader shall keep the evidence, e.g. invoices, for the past five years and shall provide it to the competent authorities upon their request. The data requirements of the application are set out in detail in Annex II to this Decision.
3. The authorisation shall at least indicate the following:
  - (a) the name of the person to whom the authorisation has been granted ('authorisation holder');

- (b) a single reference number attributed by the competent customs authority to the decision (‘authorisation reference number’);
  - (c) the authority having granted the authorisation;
  - (d) the date of taking effect of the authorisation.
4. The provisions of Union customs legislation on decisions relating to the application of the customs legislation shall apply to applications and authorisations referred to in this Article, including as regards monitoring.
5. In cases where the competent customs authority of the United Kingdom observes deliberate misuse of an authorisation or breaches of conditions for an authorisation set out in this Decision the authority shall suspend or revoke the authorisation.
6. The Union representatives may request that the competent customs authority of the United Kingdom verify a specific authorisation. The competent customs authority of the United Kingdom will take appropriate steps in response to such request and will provide information about the action undertaken within 30 days.

*Article 10*  
*General conditions for authorisation*

For the purposes of Article 7(1)(a)(ii) and Article 7(1)(b)(ii) of this Decision, an authorisation may be granted to applicants who:

- (a) meet the following establishment criteria:
  - (i) they are established in Northern Ireland or they have a fixed place of business in Northern Ireland
    - where human and technical resources are permanently present; and
    - from where goods are sold to, or provided for final use by, end consumers; and
    - where customs, commercial and transport records and information are available or accessible in Northern Ireland, or
  - (ii) they are established in parts of the United Kingdom other than Northern Ireland and fulfil the following criteria:
    - their customs related operations are carried out in the United Kingdom;
    - they have an indirect customs representative in Northern Ireland;

- their customs, commercial and transport records and information are available or accessible in the United Kingdom to the competent authorities of the United Kingdom and the Union representatives for verifying compliance with the conditions and undertakings given pursuant to this Decision; and
- (b) undertake to bring goods into Northern Ireland solely for sale to, or final use by, end consumers in the United Kingdom, including where those goods have been subject to non-commercial processing in accordance with Article 6 of this Decision before their sale to, or final use by, end consumers in the United Kingdom; and, in the case of a sale to end consumers in Northern Ireland, undertake that the sale will be from one or several physical outlets in Northern Ireland from which physical direct sales are made to end consumers.

### *Article 11*

#### *Specific conditions for authorisation of importers*

1. For the purposes of Article 7(1)(a)(ii) and Article 7(1)(b)(ii) of this Decision, an authorisation to bring goods into Northern Ireland shall only be granted to applicants fulfilling the conditions set out in Article 10 of this Decision as well as the following conditions, as further explained in Annex III to this Decision:
  - (a) the applicant declares they will declare for release for free circulation goods brought into Northern Ireland in accordance with Article 7(1)(a)(ii) or Article 7(1)(b)(ii) of this Decision;



- (b) within three years prior to the application, the applicant must not have committed any serious infringement or repeated infringements of customs legislation and taxation rules and must not have any record of serious criminal offences relating to their economic activity;
- (c) in respect of goods to be declared as not at risk, the applicant shall demonstrate that they have a high level of control of their operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate controls and provision of evidence to support the undertaking in Article 10(b) of this Decision;
- (d) the applicant is of good financial standing during the three-year period prior to the application, or in the period since its establishment where less than three years, such as to enable the applicant to fulfil its commitments, with due regard to the characteristics of the type of business activity concerned;
- (e) the applicant should be able to show a clear understanding of its obligations under this authorisation and in relation to the movements of goods under the scheme and how to comply with them.

2. Applicants shall be able to determine whether the goods they bring into Northern Ireland correspond to any of the categories set out in Annex IV to this Decision.

3. Authorisations shall be granted only if the customs authority considers that it will be able to carry out controls in accordance with relevant agreed operational arrangements without disproportionate administrative effort, including control of any evidence that the goods were sold to, or subject to final use by, end consumers.

*Article 12*

*Specific conditions for authorisation of Carriers*

1. For the purposes of Article 7(1)(a)(iii)(bb) of this Decision, an economic operator moving parcels, including the United Kingdom designated postal operator, can apply to be an authorised carrier moving parcels from another part of the United Kingdom to Northern Ireland ('Authorised Carrier') if it fulfils the following conditions:
  - (a) it has registered as an economic operator;
  - (b) it is established in the United Kingdom and, in case it is not established in Northern Ireland, it has an indirect customs representative there;
  - (c) within three years prior to application it must not have committed any serious infringement or repeated infringements of a legislative or regulatory requirement that is relevant to its economic activity;

(d) it must have a high level of control of its operations, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate controls and provision of evidence to support its economic activity.

2. Authorisations shall be granted only if the United Kingdom competent authority considers that it will be able to carry out controls in accordance with the relevant agreed operational arrangements without disproportionate administrative effort, including control of any evidence that the goods were delivered to private individuals residing in Northern Ireland.

### *Article 13*

#### *Obligations of Authorised Carriers*

An Authorised Carrier shall:

- (a) take responsibility for establishing that the goods in each parcel are of the type described in Article 138, point (1), of Commission Delegated Regulation (EU) 2015/2446;
- (b) maintain operational processes that enable it to distinguish between economic operators and private individuals as recipients or senders of parcels;
- (c) be able to determine whether the goods they bring into Northern Ireland correspond to category 1 as set out in Annex IV to this Decision;

- (d) maintain systems that enable it to collect and share the data referred to in Annex 52-03 to Commission Delegated Regulation (EU) 2015/2446;
- (e) provide to the United Kingdom competent authority the data referred to in Article 141(1)(d)(vii) of Commission Delegated Regulation (EU) 2015/2446 at regular intervals and under the conditions set out therein;
- (f) report to the United Kingdom competent authority any suspicious activity relating to the movement of parcels referred to in Article 7(1)(a)(iii)(bb) of this Decision;
- (g) respond to ad hoc requests from the United Kingdom competent authority for further information;
- (h) comply with any instructions from the United Kingdom competent authority as to the movements of parcels referred to in Article 7(1)(a)(iii)(bb) of this Decision.

*Article 14*

*Exchange of information on the application of Article 5(1) and (2) of the Protocol*

1. Without prejudice to its obligations pursuant to Article 5(4) of the Protocol, read in conjunction with Regulation (EC) No 638/2004 of the European Parliament and of the Council<sup>1</sup> and Regulation (EC) No 471/2009 of the European Parliament and of the Council<sup>2</sup>, the United Kingdom shall provide the Union with information on the application of Article 5(1) and (2) of the Protocol as well as of this Decision on a monthly basis. This information shall comprise volumes and values, in aggregated form and per consignment, as well as means of transport, relating to:
- (a) goods brought into Northern Ireland in relation to which no customs duties were payable in accordance with the first subparagraph of Article 5(1) of the Protocol;
  - (b) goods brought into Northern Ireland in relation to which the customs duties payable were those applicable in the United Kingdom in accordance with the second subparagraph of Article 5(1) of the Protocol; and
  - (c) goods brought into Northern Ireland in relation to which the customs duties payable were in accordance with the Union Common Customs Tariff.

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<sup>1</sup> Regulation (EC) No 638/2004 of the European Parliament and of the Council of 31 March 2004 on Community statistics relating to the trading of goods between Member States and repealing Council Regulation (EEC) No 3330/91 (OJ L102, 7.4.2004, p. 1).

<sup>2</sup> Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

2. The United Kingdom shall provide the information referred to in paragraph 1 on the 15<sup>th</sup> working day of the following month for which the information is provided.
3. The information shall be provided using electronic data processing techniques.
4. At the request of the Union representatives referred to in Decision No 6/2020 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and at least twice per year, the competent authorities of the United Kingdom shall provide information in aggregated and per authorisation form to these representatives on the authorisations granted pursuant to Articles 9 to 12 of this Decision, including numbers of accepted, rejected and revoked authorisations, and the place of establishment of the authorisation holders.

#### *Article 15*

##### *Review, suspension and termination of Section 2 of this Decision*

1. The Joint Committee shall discuss the application of this Section unless the Parties decide otherwise.

2. The Union may notify the United Kingdom within the Joint Committee where the United Kingdom:
- (a) in a sustained manner, fails to implement Article 5 of Joint Committee Decision No 6/2020 through the provision of access to information contained in United Kingdom networks, information systems and databases and United Kingdom national modules of Union systems referred to in Annex I to that Joint Committee Decision; or
  - (b) six months after the date referred to in Article 23(5) of this Decision or at any moment thereafter, fails to ensure that Union representatives have access to information contained in United Kingdom networks, information systems and databases and United Kingdom national modules of Union systems referred to in point a) in accessible format and in such a way as to allow them to conduct risk analysis including identification of recent and historical trends patterns; or
  - (c) seriously mismanages implementation of Articles 9 to 14 of, and Annex III to, this Decision .

The Union shall provide the United Kingdom with the reasons for which it has made the notification. The Parties shall use their best endeavours to find a mutually satisfactory resolution of the matter. If the Parties do not find a mutually satisfactory resolution within 30 working days of the notification, or such longer period as the Joint Committee may decide, Article 7(1)(a)(ii), Article 7(1)(a)(iii), Article 7(1)(b)(ii) and Articles 9 to 14 of this Decision shall cease to apply from the first day of the month following the end of that period.

In the case referred to in the second subparagraph, the Union and the United Kingdom shall immediately enter into consultations in the Joint Committee and shall use their best endeavours to find a mutually satisfactory resolution of the matter, or to agree on alternative provisions for the period of suspension.

If the situation having given rise to that notification has been remedied, the Union shall notify the United Kingdom within the Joint Committee. In that case, the provisions referred to in the second subparagraph shall apply again from the first day of the month following that during which the second notification was made.

3. The United Kingdom may notify the Union within the Joint Committee where the Union acts providing for facilitations relating to the movement of goods referred to in Article 7(1)(a)(ii) and Article 7(1)(a)(iii) of this Decision cease to be in force, in whole or in part, in such a way that they no longer provide for the same level of facilitations.



The United Kingdom shall provide the Union with the reasons for which it has made the notification. The Parties shall use their best endeavours to find a mutually satisfactory resolution of the matter. If the Parties do not find a mutually satisfactory resolution within 30 working days of the notification, or such longer period as the Joint Committee may decide, Articles 9, 10, 11 and 14 of this Decision shall cease to apply from the first day of the month following the end of that period and instead rules identical to those contained in Articles 5 to 8 of Joint Committee Decision No 4/2020 shall apply.

If the situation having given rise to that notification has been remedied, the United Kingdom shall notify the Union within the Joint Committee. In that case, Articles 9, 10, 11 and 14 of this Decision shall apply again and rules identical to those contained in Articles 5 to 8 of Joint Committee Decision No 4/2020 shall cease to apply from the first day of the month following that during which the second notification was made.

4. If either Party considers there is significant diversion of trade, or fraud or other illegal activities, that Party shall inform the other Party in the Joint Committee at the latest one year after the date referred to in Article 23(5) of this Decision, and the Parties shall use their best endeavours to find a mutually satisfactory resolution of the matter. If the Parties do not find a mutually satisfactory resolution, Article 7(1)(a)(ii), Article 7(1)(a)(iii), Article 7(1)(b)(ii) and Articles 9 to 14 of this Decision shall cease to apply 24 months after the date referred to in Article 23(5) of this Decision, unless the Joint Committee decides within 18 months of the date referred to in Article 23(5) of this Decision to continue their application.

In case Article 7(1)(a)(ii), Article 7(1)(a)(iii), Article 7(1)(b)(ii), and Articles 9 to 14 of this Decision cease to apply in accordance with the first subparagraph, the Joint Committee shall amend this Decision at the latest 24 months after the date referred to in Article 23(5) of this Decision to make appropriate alternative provision applicable from 24 months after the date referred to in Article 23(5) of this Decision, having regard to the specific circumstances in Northern Ireland and fully respecting Northern Ireland's place in the United Kingdom's customs territory.

In case Article 7(1)(a)(ii), Article 7(1)(a)(iii), Article 7(1)(b)(ii) and Articles 9 to 14 of this Decision have been suspended in accordance with paragraphs 2(a) or 2(b) of this Article, the time periods in the first and second subparagraphs shall be extended by the duration of such suspension.

#### *Article 16*

#### *Repeal of Joint Committee Decision No 4/2020*

This Section of this Decision shall replace Joint Committee Decision No 4/2020, which is hereby repealed.

**SECTION 3**  
**ESTABLISHMENT OF AN ENHANCED COORDINATION MECHANISM**  
**RELATED TO THE FUNCTIONING OF THE PROTOCOL**  
**IN THE AREAS OF VAT AND EXCISE**

*Article 17*

*Subject matter*

1. An Enhanced Coordination Mechanism on VAT and excise concerning goods ('the Mechanism') is hereby established.
2. The purpose of the Mechanism is to assist the Joint Committee in fulfilling its task to review the implementation and application of Article 8 of the Protocol with regard to the provisions of Union law listed in Annex 3 to the Protocol, taking into account Northern Ireland's integral place in the United Kingdom's internal market, while ensuring the integrity of the Union internal market.

*Article 18*

*Tasks*

The Mechanism shall assist the Joint Committee to:

- (a) provide a forum for the enhanced and timely coordination of the exchange of relevant information and for consultation on future United Kingdom and Union VAT and excise legislation whenever in particular it affects the trade in goods in Northern Ireland due to important changes envisaged in the applicable legislative framework or major difficulties that may arise from separation of treatment of goods and services in the field of VAT;
- (b) provide a forum to assess the potential impact and prepare a smooth implementation of the legislation referred to in point (a) in Northern Ireland. This assessment should particularly look at avoiding undue administrative burdens and unnecessary costs for businesses and tax administrations;
- (c) provide a forum to discuss practical difficulties in relation to the application of existing United Kingdom and Union VAT and excise legislation as applicable by virtue of the Protocol;

- (d) adopt decisions or recommendations in relation to provisions of Union law listed in Annex 3 to the Protocol, while avoiding adverse impact on fiscal fraud risks and any potential distortion of competition in the Union. Such decisions and recommendations shall not affect the level of VAT and excise levied on goods; and
- (e) discuss and adopt any other appropriate measures as necessary to address issues arising from the implementation and application of Article 8 of the Protocol.

*Article 19*

*Operation*

1. The co-chairs of the Specialised Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland established by Article 165(1)(c) of the Withdrawal Agreement ('the Specialised Committee') shall convene specific meetings of the Specialised Committee to discuss VAT and excise concerning goods as necessary. These meetings will be known as the Enhanced Coordination Mechanism on VAT and excise.

The co-chairs of the Specialised Committee shall each designate a lead expert in the area of VAT and excise ('the lead experts').

2. Meetings of the Mechanism shall be arranged when necessary. The lead experts may informally exchange views between the meetings of the Mechanism and may also meet informally. After each informal meeting, the lead experts shall draw up minutes and send them to the co-chairs of the Specialised Committee and the joint consultative working group established by Article 15 of the Protocol ('the joint consultative working group').
3. The lead experts shall submit a final report to the co-chairs of the Specialised Committee summarising the outcome of the discussion on a particular issue and setting out any recommended action, including any issues on which agreement could not be reached.
4. The lead experts may invite representatives of third parties or other experts to talk on particular matters. They will communicate the names of these experts to the co-chairs of the Specialised Committee.

The co-chairs of the joint consultative working group may attend the meetings of the Mechanism. The co-chairs of the joint consultative working group may inform the lead experts about planned Union acts and other issues relating to VAT and excise concerning goods.

5. The Rules of procedure of the Joint Committee and Specialised Committees as set out in Annex VIII to the Withdrawal Agreement shall apply mutatis mutandis to the Mechanism unless otherwise provided for in this Decision.

*Article 20*

*Proposals for decisions or recommendations related to this section*

On the basis of the final report from the lead experts referred to in Article 19(3), the Specialised Committee may draw up proposals for decisions or recommendations and refer them for adoption by the Joint Committee. These proposals shall set out:

- (a) the issues jointly identified by the Union and the United Kingdom in relation to the application of Article 8 of the Protocol; and
- (b) the proposed solutions.

*Article 21*

*Review of this section*

The Mechanism shall be regularly reviewed and, if appropriate, revised.

The first review shall take place by 1 January 2027, at the latest.

## SECTION 4

### FINAL PROVISIONS

#### *Article 22*

Annexes I to IV shall form an integral part of this Decision.

#### *Article 23*

##### *Entry into force and application*

1. This Decision shall enter into force on the day following the date of its adoption.
2. Sections 1, 3 and 4 shall apply as of the date of entry into force of this Decision.
3. Articles 9, 11 and 12 of, and Annex III to, this Decision shall apply as from the date of the entry into force of this Decision. As from that date, Articles 5 and 7 of Joint Committee Decision No 4/2020 shall cease to apply. An authorisation granted pursuant to Articles 5 and 7 of Joint Committee Decision No 4/2020 shall remain valid until the date at which the provisions of this Decision, with the exception of Article 7(1)(a)(iii), Articles 9, 11, 12, 13 and Article 15(3), apply, in accordance with paragraph 3 of this Article. Any authorisation granted under Articles 9 and 11 of this Decision will be treated as an authorisation granted under Articles 5 and 7 of Joint Committee Decision No 4/2020 for as long as the other provisions of that Joint Committee Decision No 4/2020 apply.



4. Subject to the second subparagraph, the other provisions of this Decision, with the exception of Article 7(1)(a)(iii), Article 13 and Article 15(3), shall apply as from 30 September 2023, provided that the following declarations have been made within the Joint Committee:
- (a) a declaration by the Union to the effect that it is satisfied:
    - (i) with the implementation by the United Kingdom of Article 5 of Joint Committee Decision No 6/2020 through the provision of access to information contained in United Kingdom networks, information systems and databases and United Kingdom national modules of Union systems referred to in Annex I to that Joint Committee Decision; and
    - (ii) that all existing XI EORI registrations are correctly issued; and
    - (iii) that the United Kingdom has issued new guidance for parcels in line with the arrangements set out in this Decision; and
    - (iv) that the United Kingdom has issued its unilateral declaration on export procedures for goods exiting Northern Ireland to other parts of the United Kingdom.

- (b) a declaration by the United Kingdom to the effect that all importers wishing to operate under Article 7(1)(a)(ii) and Article 7(1)(b)(ii) of this Decision have been granted authorisations in accordance with Articles 9 and 11 of, and Annex III to, this Decision.

Should any of the declarations referred to in the first subparagraph not have been made by 30 September 2023, the provisions of this Decision, with the exception of Article 7(1)(a)(iii), Articles 9, 11, 12, 13 and Article 15(3), shall apply as from the first day of the month following that in which the last of these declarations has been made.

5. Provided that the Union acts providing for facilitations relating to the movement of goods referred to in Article 7(1)(a)(ii) and Article 7(1)(a)(iii) of this Decision have entered into force and subject to the second subparagraph, Article 7(1)(a)(iii), Article 13 and Article 15(3) shall apply as from 30 September 2024, provided that the following declarations have been made within the Joint Committee:

- (a) a declaration by the Union to the effect that it is satisfied that the United Kingdom has set up the networks, information systems and databases in relation to the data referred to in Article 141(10)(d)(vii) of Commission Delegated Regulation (EU) 2015/2446 that are to be provided to the United Kingdom competent authority and is satisfied with the implementation by the United Kingdom of Article 5 of Joint Committee Decision No 6/2020 through the provision of access to information contained in these networks, information systems and databases; and

- (b) a declaration by the United Kingdom to the effect that all authorised carriers are able to comply with the obligations set out in Article 13 of this Decision.

Should both declarations referred to in the first subparagraph have been made earlier than by 30 September 2024 or should any of the declarations referred to in the first paragraph not have been made by that date, Article 7(1)(a)(iii), Article 13 and Article 15(3) shall apply as from the first day of the month following that in which the last of these declarations has been made.

Done at ..., ...

*For the Joint Committee  
The Co-chairs*

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## ANNEX I

### Unilateral Declaration by the United Kingdom

#### Involvement of the institutions of the 1998 Agreement

1. The United Kingdom will adopt the following procedure to operate the emergency brake mechanism in Article 13(3a) of the Windsor Framework<sup>1</sup>. This mechanism will apply in the unique circumstances of this Declaration and is without prejudice to the status of cross-community voting and safeguards in the 1998 Agreement, which apply solely and exclusively to devolved matters.
  - a. The mechanism will operate solely and exclusively in the event that after the date of this declaration, the Northern Ireland Executive has been restored and become operational, including with a First Minister and deputy First Minister in post, and the Northern Ireland Assembly has been in regular session. Thereafter, Members of the Legislative Assembly ('MLAs') wishing to operate the mechanism must be individually and collectively seeking in good faith to fully operate the institutions, including through the nomination of Ministers and support for the normal operation of the Assembly.

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<sup>1</sup> See Joint Declaration No .../2023.

- b. The minimum threshold for the mechanism will operate on the same basis as the separate ‘Petition of Concern’ process within the 1998 Agreement, as updated through the New Decade, New Approach Agreement in 2020. This means 30 MLAs from at least two parties (and excluding the Speaker and Deputy Speakers) will need to notify the UK Government of their wish that the emergency brake mechanism should be applied.
  
- c. When providing notification to the UK Government, MLAs will need to demonstrate, in a detailed and publicly available written explanation:
  - i. that they have met the same requirements as those set out in Annex B of Part 2 of the New Decade, New Approach Agreement, namely that the notification is only being made in the most exceptional circumstances and as a last resort, having used every other available mechanism;
  
  - ii. that the conditions set out in the third subparagraph of Article 13(3a) of the Windsor Framework are met; and
  
  - iii. that MLAs have sought prior substantive discussion with the UK Government and within the Northern Ireland Executive to examine all possibilities in relation to the Union act; taken steps to consult businesses, other traders and civic society affected by the relevant Union act; and made all reasonable use of applicable consultation processes provided by the European Union for new Union acts relevant to Northern Ireland.

2. If it accepts that the conditions in paragraph 1(a) and (b) have been met and that the explanation provided under paragraph 1(c) is satisfactory, the United Kingdom will notify the Union in accordance with the first subparagraph of Article 13(3a) of the Windsor Framework.
  3. The United Kingdom, following a notification by MLAs, commits to informing the Union without delay.
  4. The United Kingdom, following a notification to the Union that the emergency brake has been triggered, commits to intensive consultations in the Joint Committee on the relevant Union act as provided for by Article 13(4) of the Windsor Framework.
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## ANNEX II

Application for Authorisation to bring goods into Northern Ireland for end consumers

(referred to in Article 9)

### Application information

#### 1. Supporting documents

Mandatory supporting documents and information to be provided by all applicants:

Document of establishment / proof of a permanent business establishment

#### 2. Other supporting documents and information to be provided by the applicant:

Any other supporting document or information that is considered relevant for checking the applicant's compliance with the conditions referred to in Articles 10 and 11 of this Decision.

Provide information on the type and, if applicable, the identification number and/or the date of issue of the supporting document(s) attached to the application. Indicate also the total number of the documents attached.

3. Date and signature of the applicant

Applications made by using an electronic data processing technique shall be authenticated by the person who lodges the application.

Date on which the applicant has signed or otherwise authenticated the application.

Details of the applicant

4. Applicant

The applicant is the person who applies to the customs authorities for a decision.

Enter the name and address of the person concerned.

5. Applicant identification number

The applicant is the person who applies to the customs authorities for a decision.

Enter the Economic Operators Registration and Identification number (EORI number), of the person concerned, as provided for in Article 1(18) of Commission Delegated Regulation (EU) 2015/2446<sup>1</sup>.

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<sup>1</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 28.12.2015, p. 1).



6. Legal status of the applicant

The legal status as mentioned in the document of establishment.

7. VAT identification number(s)

Where assigned, enter the VAT identification number.

8. Business activities

Enter information on the business activity of the applicant. Please describe briefly your commercial activity and state your role in the supply chain (e.g. manufacturer of goods, importer, retailer, etc.). Please describe:

- the intended use of the imported goods, including a description of the type of goods and whether they undergo any type of processing;
- an estimation on the number of customs declarations for release for free circulation for the goods concerned to be made per year;
- the type of records, systems and controls put in place to support the undertaking in Article 10(b).

9. Annual turnover

For the purposes of Article 6 of this Decision, enter the annual turnover for the most recent complete financial year. If a newly established business, provide such records and information as relevant to enable an assessment of anticipated turnover e.g. latest cash flow, balance sheet and profit and loss forecasts, approved by the directors/partners/sole proprietor.

10. Contact person responsible for the application

The contact person shall be responsible for keeping contact with customs as regards the application.

Enter the contact person's name and any of the following: telephone number, e-mail address (preferably of a functional mailbox).

11. Person in charge of the applicant company or exercising control over its management

For the purposes of Article 11(1)(b) of this Decision, enter the name(s) and full details of the person(s) concerned according to the legal establishment/form of the applicant company, in particular: director/manager of the company and board directors if any. Details should include: full name and address, and date of birth and National Identification Number.

Dates, times, periods and places

12. Date of establishment

With numbers – the day, month and year of establishment.

13. Address of establishment / address of residence

The full address of the place where the person is established/resides, including the identifier of the country or territory.

14. Place where records are kept

Enter full address of the location(s) where the applicant's records are kept or intended to be kept. The UN/LOCODE may replace the address, if it provides an unambiguous identification of the location concerned.

15. Place(s) of processing or use

Please indicate the address of the place(s) where the goods will be processed, where applicable, and sold to the end consumers.

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## ANNEX III

### Explanation of conditions referred to in Article 11

This Annex is an explanation of the conditions in Article 11 and does not change (either constrain or expand), those conditions.

#### Article 11(1)(b)

1. The criterion laid down in Article 11(1)(b) of this Decision shall be considered to be fulfilled if:
  - (a) there is no decision taken by an administrative or judicial authority concluding that one of the persons described in point (b) has committed, within three years prior to the application, a serious infringement or repeated infringements of customs legislation or taxation rules in relation to their economic activity; and
  - (b) none of the following persons has a record of serious criminal offence in relation to their economic activity and, where applicable, the applicant's economic activity:
    - (i) the applicant,
    - (ii) the employee(s) including any direct representative(s) in charge of the applicant's administration related to the movement of goods under this scheme,

(iii) the person(s) in charge of the applicant or exercising control over its management, and

(iv) a person acting in their own name and on behalf of the applicant in relation to movement of goods under this scheme.

2. The criterion may nevertheless be considered to be fulfilled where the competent authority considers any infringement to be of minor importance, in relation to the number or size of the related operations, and the competent authority has no doubt as to the good faith of the applicant.
3. Where the person referred to in paragraph 1(b)(iii), other than the applicant is established or has their residence outside the UK, the competent authority shall assess the fulfilment of the criterion referred to on the basis of the records and information that are available to it.
4. Where the applicant has been established for less than three years, the competent authority shall assess the fulfilment of the criterion as regards the applicant on the basis of the records and information that are available to it.

## Article 11(1)(c)

The criterion laid down in Article 11(1)(c) of this Decision shall be considered to be fulfilled if:

5. The applicant has an administrative organisation and internal controls which correspond to the type and size of business, and which is suitable for the management of the flow of goods. Applicants must have internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal activities within their organisation.
6. The applicant should demonstrate adequate record keeping in relation to the movement of goods under this scheme. Procedures for protection against loss of information and archiving procedures with respect to keeping of historical records should be demonstrated including the assessment, back-up and protection of records for five years.
7. The management of records should be consistent with the accounting principles applied in the UK.
8. Records on goods movements into Northern Ireland should either be integrated in the accounting system or, when held separately, there should be a possibility to allow for cross checks between records relating to purchases, sales, stock control and movement of goods.
9. The authorised trader shall provide the competent authority with electronic and/or physical access, upon request, to the records referred to in point 8 in a suitable format.

10. The authorised trader is obliged to inform the competent UK authorities whenever compliance difficulties are discovered as well as any factor arising after the decision to grant the authorised trader status which might influence its continuation or content. Internal instructions should be in place to ensure that relevant staff are aware of how to inform the competent authority of such compliance difficulties.
11. Where authorised traders are handling prohibited and restricted goods, there should be appropriate procedures in place for the handling of those goods in accordance with relevant legislation.
12. An authorised trader needs to have evidence relating to their customers to ensure that they can make accurate assessments in respect of goods moved under this scheme. Measures must be in place to ensure that any goods moved under this scheme are only to be sold or used if in accordance with this Joint Committee Decision. The authorised trader will be obliged to maintain an ongoing understanding of the business operations of new and existing clients, sufficient to ensure compliance with the criteria laid down for a trusted trader in this Joint Committee Decision. The following are examples of scenarios in which an authorised trader who is not responsible for the end destination of the goods could move goods under the scheme:
  - a. a written and signed declaration from the customer stating that the goods will remain in Northern Ireland;

- b. evidence that the customer only makes retail sales for final use or end-consumption in the UK from a physical outlet in Northern Ireland;
- c. evidence that the customer only sells goods that will be for final use by end-consumers in the UK and are delivered within the UK;
- d. commercial contracts and purchase orders showing that goods will be for final use in the UK;
- e. evidence that the sale is of a good to be permanently installed within the UK.

Article 11(1)(d)

13. The criterion laid down in Article 11(1)(d) of this Decision shall be considered to be fulfilled where the competent authority checks that the applicant complies in particular with the following:
- a. the applicant is not subject to bankruptcy proceedings;
  - b. during the last three years preceding the submission of the application, the applicant has fulfilled their financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;



c. the applicant demonstrates on the basis of the records and information available for the last three years preceding the submission of the application that they have sufficient financial standing to meet their obligations and fulfil their commitments having regard to the type and volume of the business activity.

14. If the applicant has been established for less than three years, their financial solvency shall be checked on the basis of records and information that are available.

#### Article 11(1)(e)

The criterion laid down in Article 11(1)(e) of this Decision shall be considered to be fulfilled if:

15. The applicant or the person in charge of the applicant's administration related to the movement of goods under this scheme should be able to show a clear understanding of, and how to comply with, their obligations in relation to these criteria and must display sufficient competence in providing accurate information to the competent authority in relation to these obligations and applicable procedures.

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## ANNEX IV

### Category 1

The goods referred to as ‘category 1 goods’ are those goods subject to:

1. restrictive measures in force based on Article 215 Treaty on the Functioning of the European Union, insofar as they relate to trade in goods between the Union and third countries;
2. total bans and prohibitions;
3. trade defence instruments as set out in section 5 of Annex 2 to the Protocol;
4. Union tariff rate quotas when the quota is claimed by the importer;
5. Union quotas other than tariff rate quotas.

### Category 2

The goods referred to as ‘category 2 goods’ are those goods subject to:

1. Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors
2. Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

3. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products
4. Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste
5. Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008
6. Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein
7. Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards
8. Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species
9. Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel

10. Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community
11. Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom
12. Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products
13. Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses
14. Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles
15. Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors
16. Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons
17. Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

18. Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds
19. Union tariff rate quotas when the quota is not claimed by the importer
20. Article 47 of Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (Official Controls Regulation), except when the goods are also subject to the Regulation of the European Parliament and of the Council on specific rules relating to the entry into Northern Ireland from other parts of the United Kingdom of certain consignments of retail goods, plants for planting, seed potatoes, machinery and certain vehicles operated for agricultural or forestry purposes, as well as non-commercial movements of certain pet animals into Northern Ireland as will be adopted on the basis of [reference to the Commission proposal to be inserted before date of Joint Committee meeting]
21. Union acts listed in point 2 of Annex 3 to the Protocol
22. Union acts listed in point 20 of Annex 2 to the Protocol
23. Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals

24. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC
  25. Regulation (EU) 2019/880 of the European Parliament and of the Council on the introduction and the import of cultural goods
  26. Any Union act as applying to and in the United Kingdom in respect of Northern Ireland in accordance with the Protocol which provides for any steps which must be carried out by an economic operator or by a partner competent authority prior to, or when, goods enter the Union, for the purpose of controlling the goods or controlling other formalities. The Union shall inform without delay the United Kingdom where a Union act is of the nature referred to in the first sentence.
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DRAFT

**RECOMMENDATION No .../2023**  
**OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT**  
**ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN**  
**AND NORTHERN IRELAND FROM THE EUROPEAN UNION**  
**AND THE EUROPEAN ATOMIC ENERGY COMMUNITY**

**of ...**

**on market surveillance and enforcement**

THE JOINT COMMITTEE,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>1</sup> ('the Withdrawal Agreement'), and in particular Article 166(1) thereof,

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<sup>1</sup> OJ L 29, 31.1.2020, p. 7.

Whereas:

- (1) Article 166(3) of the Withdrawal Agreement provides that recommendations are to be made by mutual consent.
- (2) Under Article 182 of the Withdrawal Agreement, the Protocol on Ireland/Northern Ireland ('the Protocol') forms an integral part of that Agreement.
- (3) Article 6(2) of the Protocol envisages the establishment of specific arrangements for the movement of goods within the United Kingdom's internal market, consistent with Northern Ireland's position as part of the customs territory of the United Kingdom in accordance with the Protocol, where the goods are destined for final consumption or final use in Northern Ireland and where the necessary safeguards are in place to protect the integrity of the Union's internal market and customs union in accordance with the Protocol,

HAS MADE THE FOLLOWING RECOMMENDATION:



## *Article 1*

The Joint Committee recommends to the Union and the United Kingdom the following:

In the context of the specific arrangements envisaged under Article 6(2) of the Protocol, market surveillance and enforcement tools should be used collaboratively to monitor the flow of goods and manage any risks that goods might illegally enter the Union or the United Kingdom.

Enhanced cooperation between the United Kingdom and the Union, and between the United Kingdom and Member State authorities where appropriate, should underpin those arrangements with effective market surveillance and enforcement activity. This should support monitoring and management of those arrangements without requiring any checks or controls at the border between Northern Ireland and Ireland.

This cooperation could encompass knowledge-sharing, information exchange, work with operators and joint activity where appropriate, in particular between authorities in Northern Ireland and in relevant Member States, to tackle illegal activity and smuggling, ensure that goods are not placed on the market which do not meet the applicable standards, and ensure enforcement and surveillance activity is prioritised based on risk and intelligence. Authorities will also ensure business and operator awareness of the market access available for goods moving between Northern Ireland and the Union, where those goods meet the applicable requirements, in accordance with the Protocol.

The United Kingdom and the Union should work constructively through the structures of the Withdrawal Agreement, including the Joint Committee, to support the effective functioning of the new arrangements, in the interests of people and businesses in Northern Ireland.

*Article 2*

This Recommendation shall take effect on the day following the date on which it is made.

Done at ..., ...

*For the Joint Committee*

*The Co-chairs*

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DRAFT

**RECOMMENDATION No .../2023**  
**OF THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT**  
**ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN**  
**AND NORTHERN IRELAND FROM THE EUROPEAN UNION**  
**AND THE EUROPEAN ATOMIC ENERGY COMMUNITY**

**of ...**

**on Article 13(3a) of the Protocol on Ireland/Northern Ireland**

THE JOINT COMMITTEE,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>1</sup> ('the Withdrawal Agreement'), and in particular Article 166(1) thereof,

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<sup>1</sup> OJ L 29, 31.1.2020, p. 7.

Whereas:

- (1) Article 166 (3) of the Withdrawal Agreement provides that recommendations are to be made by mutual consent.
- (2) Under Article 182 of the Withdrawal Agreement, the Protocol on Ireland/Northern Ireland ('the Protocol') forms an integral part of that Agreement.
- (3) Where an arbitration panel has ruled that the United Kingdom has failed to comply with the conditions set out in Article 13(3a), third sub-paragraph, of the Protocol, swift compliance with such an arbitration panel ruling should be achieved,

HAS MADE THE FOLLOWING RECOMMENDATION:

*Article 1*

The Joint Committee recommends to the Union and the United Kingdom the following:

In case the arbitration panel has ruled, in accordance with Article 175 of the Withdrawal Agreement, that the United Kingdom has failed to comply with Article 13(3a), third sub-paragraph, of the Protocol, the Union and the United Kingdom agree no later than 30 days after such notification that in order to comply with the arbitration panel ruling, and as the case may be, to the extent set out therein, the Union act applies as amended or replaced by the specific Union act, as defined in Article 13(3a) of the Protocol, as from the first day of the second month following the notification of the arbitration panel ruling to the Union and the United Kingdom.

*Article 2*

This Recommendation shall take effect on the day following the date on which it is made.

Done at ..., ...

*For the Joint Committee  
The Co-chairs*

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## ANNEX 2

DRAFT

JOINT DECLARATION No .../2023  
OF THE UNION AND THE UNITED KINGDOM  
IN THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT  
ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY  
of ... 2023

Reflecting the arrangements laid down in Decision No .../2023 of the Joint Committee, the Protocol on Ireland/Northern Ireland ('the Protocol'), as amended by that Joint Committee Decision, should now be known as the 'Windsor Framework'.

Therefore, wherever relevant in dealings between the Union and the United Kingdom under the Withdrawal Agreement, the Protocol, as amended by Joint Committee Decision No .../2023, will, consistent with the requirements of legal certainty, be referred to as the 'Windsor Framework'. The Protocol, as amended by Joint Committee Decision No .../2023, may also be referred to as the 'Windsor Framework' in the domestic law of the Union and the United Kingdom.

DRAFT

JOINT DECLARATION  
OF THE UNION AND THE UNITED KINGDOM  
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AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

of ... 2023

on the application of Article 10(1) of the Windsor Framework<sup>1</sup>

The provisions of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part govern the subsidy control obligations between the United Kingdom and the Union generally and ensure a level playing field between the United Kingdom and the Union.

Article 10(1) of the Windsor Framework exists separately from those provisions. The Windsor Framework reflects both Northern Ireland's unique access to the Union's internal market and its integral place in the United Kingdom's internal market. In this context, Article 10(1) of the Windsor Framework should be understood as only relevant for trade in goods or on the electricity market (hereafter referred to as goods) between Northern Ireland and the Union which is subject to the Windsor Framework.

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<sup>1</sup> See Joint Declaration No .../2023.

On 17 December 2020, the Union made the following unilateral declaration in the Joint Committee established under Article 164 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community: ‘When applying Article 107 TFEU to situations referred to in Art. 10(1) of the Protocol, the European Commission will have due regard to Northern Ireland’s integral place in the United Kingdom’s internal market. The European Union underlines that, in any event, an effect on trade between Northern Ireland and the Union which is subject to this Protocol cannot be merely hypothetical, presumed, or without a genuine and direct link to Northern Ireland. It must be established why the measure is liable to have such an effect on trade between Northern Ireland and the Union, based on the real foreseeable effects of the measure.’.

This Joint Declaration on the application of Article 10(1) of the Windsor Framework builds upon the Union Unilateral Declaration, affirming Northern Ireland’s place in the United Kingdom’s internal market, and at the same time ensuring that the Union internal market is protected. It clarifies the conditions of application of Article 10(1) of the Windsor Framework setting out the particular circumstances in which it is likely to be engaged when subsidies are granted in the United Kingdom, and can be used to interpret that provision.

For a measure to be considered to have a genuine and direct link to Northern Ireland and thus to have an effect on the trade between Northern Ireland and the Union that is subject to the Windsor Framework, that measure needs to have real foreseeable effects on that trade. The relevant real foreseeable effects should be material, and not merely hypothetical or presumed.



For measures granted to any beneficiary that is located in Great Britain, factors relevant to materiality may include the size of the undertaking, the size of the subsidy, and the market presence of the undertaking in the relevant market in Northern Ireland. While the mere placement of goods on the Northern Ireland market is not sufficient, on its own, to represent a direct and genuine link engaging Article 10(1) of the Windsor Framework, measures that are granted to beneficiaries located in Northern Ireland are more likely to have material effects.

For measures granted to any beneficiary that is located in Great Britain that have a material effect, it must be further demonstrated that the economic benefit of the subsidy would be wholly or partially passed on to an undertaking in Northern Ireland, or through the relevant goods placed on the market in Northern Ireland, for example through selling below market price, for there to be a direct and genuine link engaging Article 10(1) of the Windsor Framework.

The European Commission and the United Kingdom will set out in their respective guidance the circumstances in which Article 10 of the Windsor Framework will apply, providing further detail to enable both granters and businesses across the United Kingdom to operate with greater certainty.

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AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

of ... 2023

on Article 13(3a) of the Windsor Framework<sup>1</sup>

The Union and the United Kingdom recognise that for a notification under Article 13(3a) of the Windsor Framework to be made in good faith in accordance with Article 5 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>2</sup> ('the Withdrawal Agreement'), it needs to be made under each of the conditions set out in paragraph 1 of the Unilateral Declaration by the United Kingdom on involvement of the institutions of the 1998 Agreement, as annexed to Decision No .../2023<sup>3</sup>.

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<sup>1</sup> See Joint Declaration No .../2023.

<sup>2</sup> OJ L 29, 31.1.2020, p.7.

<sup>3</sup> [to insert full title of the Joint Committee decision]

In case the arbitration panel has ruled, in accordance with Article 175 of the Withdrawal Agreement, that the United Kingdom has failed to comply with Article 5 of the Withdrawal Agreement in relation to a notification under Article 13(3a) of the Windsor Framework, swift compliance with the ruling of the arbitration panel should be achieved, as set out in Recommendation No .../2023<sup>1</sup>.

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<sup>1</sup> [to insert full title of the Joint Committee recommendation]

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JOINT DECLARATION No .../2023  
OF THE UNION AND THE UNITED KINGDOM  
IN THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT  
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AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
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of ... 2023

The Union and the United Kingdom wish to restate their commitment to make full use of the structures provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('the Withdrawal Agreement'), namely the Joint Committee, the Specialised Committees and the Joint Consultative Working Group to oversee the implementation of the Agreement. They will assist each other in carrying out tasks which flow from the Windsor Framework<sup>1</sup> in full mutual respect and good faith, in accordance with Article 5 of the Withdrawal Agreement.

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<sup>1</sup> See Joint Declaration No XX/2023.

The United Kingdom recalls its unilateral commitment to ensure full participation of the First Minister and deputy First Minister of Northern Ireland in the United Kingdom's delegation to the Joint Committee, and in that context its determination to ensure that the application of the Windsor Framework should impact as little as possible on the everyday life of communities.

The Union and the United Kingdom intend to organise meetings of the relevant joint bodies on a regular basis in order to foster dialogue and engagement. In this context, the Specialised Committee on the implementation of the Windsor Framework may provide for exchanges of views on any future United Kingdom legislation regarding goods of relevance to the operation of the Windsor Framework. In particular, this would allow the United Kingdom and the Union to assess the potential impact of that future legislation in Northern Ireland, anticipate and discuss any practical difficulties at stake.

To that end, the Specialised Committee may convene in a specific composition, namely the Special Body on Goods. It may request, if necessary, the Joint Consultative Working Group and any of its relevant sub-groups composed of experts from the European Commission and the United Kingdom Government to examine and provide information on a particular issue. As appropriate, representatives from businesses and civic society stakeholders may be invited to attend relevant meetings. The Specialised Committee may make relevant recommendations to the Joint Committee as needed.

The Union and United Kingdom are committed to resolving any issues in the operation of the Windsor Framework in the best and most expeditious way possible. The Union and the United Kingdom will use the joint bodies to address any issues that may arise in the implementation of the Windsor Framework. Such issues can therefore be subject to dialogue in the joint bodies of the Withdrawal Agreement at the request of the Parties. This allows the Parties to regularly discuss relevant developments of importance for the proper fulfilment of their respective obligations under the Windsor Framework.

The Union and the United Kingdom renew their commitment to make every attempt, through dialogue, to arrive at mutually satisfactory resolutions of matters affecting the operation of the Withdrawal Agreement. To this end, the Union and United Kingdom intend to make full use of the powers of the Joint Committee, in good faith, with the aim of reaching mutually agreed solutions on issues of common interest.

Exchanges in such frameworks are without prejudice to the autonomy of the decision-making and respective legal orders of the Union and the United Kingdom.

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AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

of ... 2023

on the VAT regime for goods not being at risk for the Union's internal market  
and on the VAT arrangements for cross border refunds

The Union and the United Kingdom intend to examine the possibility to adopt a Joint Committee decision, based on Article 4 of Decision No .../2023<sup>1</sup>, providing for the rules on rates laid down in Article 98, read in conjunction with Annex III, of Directive 2006/112/EC not to apply to certain goods, other than goods supplied and installed in immovable property located in Northern Ireland by taxable persons. That decision would only relate to such goods which by their nature and by the conditions under which they are supplied would be subject to final consumption in Northern Ireland, and in relation to which not applying the rules on rates laid down in Article 98, read in conjunction with Annex III, of Directive 2006/112/EC would not lead to a negative impact on the Union's internal market in the form of fiscal fraud risks and any potential distortion of competition. Such a decision should establish a detailed list that would be valid for five years. The Union and the United Kingdom indicate their willingness to evaluate and revise such a list on a regular basis.

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<sup>1</sup> [to insert full title]

The Union and the United Kingdom also intend to evaluate the current VAT arrangements for cross border refunds under Directive 2008/9/EC and Directive 86/560/EEC and examine the need to adopt, if appropriate, based on Article 4 of Decision No .../2023 a Joint Committee decision whereby any necessary adjustments would be laid down or refund arrangements would only be limited to the application of Directive 86/560/EEC. Such evaluation should take account of the administrative burden on taxable persons as well as administrative costs on tax administrations.

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**ANNEX 3**

DRAFT

UNILATERAL DECLARATION  
BY THE UNITED KINGDOM  
IN THE JOINT COMMITTEE ESTABLISHED BY THE AGREEMENT  
ON THE WITHDRAWAL OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

of .../2023

on market surveillance and enforcement

The United Kingdom recalls its commitment to ensure a robust system of market surveillance and enforcement in the context of the unique arrangements agreed with the European Union in accordance with the Windsor Framework<sup>1</sup> to protect trade within the UK's internal market, and Northern Ireland's place in the UK's customs territory, while ensuring the integrity of the European Union's internal market and customs union.

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<sup>1</sup> See Joint Declaration No XX/2023.

The United Kingdom underlines that there must be robust enforcement to ensure that traders are not abusing these new internal UK trade arrangements to move goods into the European Union.

#### Market surveillance

The United Kingdom recognises the important role of market surveillance, and the work of market surveillance authorities and other competent authorities, in meeting these objectives. The United Kingdom will therefore continue to ensure that those authorities deliver a programme of activities which drive safety and compliance, including working with businesses to ensure they are aware of their obligations, assessing documentation and checking products on the market where relevant.

The United Kingdom will continue to:

- build capability and capacity amongst market surveillance authorities and other competent authorities;
- improve methodologies for product safety risk assessment;
- ensure that relevant authorities have the necessary powers to undertake effective monitoring activity in the context of the international border between the United Kingdom and the European Union;

- support risk-based and intelligence-led activities from relevant authorities, including appropriate audits, inspections and spot checks, to check compliance against applicable requirements;
- use robust intelligence and data gathering to ensure a detailed evidence base for identifying emerging risks, including of possible movements into the European Union;
- use accurate and detailed information to inform policy and enforcement decisions; and
- share and receive information through any relevant IT systems on the compliance activities of market surveillance authorities and other competent authorities.

The United Kingdom will also continue to support cooperation with market surveillance authorities in other markets, via the Single Liaison Office for market surveillance.

#### Enforcement

Robust enforcement will not involve new checks or controls at the border between Northern Ireland and Ireland, but will mean enhanced activity by relevant UK authorities, in accordance with international best practice, with the European Union and Member State authorities where appropriate, in order to protect the UK internal market and the European Union's internal market and customs union, and robustly tackle illegal activity and smuggling, including by organised criminal groups.

With respect to goods subject to sanitary and phytosanitary rules, market surveillance and enforcement activities will further enhance the specific procedures set out in the applicable rules for the entry of those goods into Northern Ireland. In addition, the United Kingdom will reinforce its monitoring and enforcement activity to effectively manage the risks stemming from goods moved by parcel, recognising the particular reliance placed by consumers on those movements.

The United Kingdom will also maintain its strong regime of penalties for illegal trading and smuggling activities. This will be kept under close review, with a view to increasing penalties relating to the abuse of these new rules by moving goods into the European Union if necessary to provide a further deterrent.

The United Kingdom will take effective, dissuasive and proportionate action in relation to potential non-compliance. This will include risk analysis, risk-based compliance action and ongoing risk assessments of trader populations, underpinned by sanctions and penalties.

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UNILATERAL DECLARATION  
BY THE UNITED KINGDOM  
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AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

of .../2023

on export procedures for goods moving from Northern Ireland to other parts of the United Kingdom

The United Kingdom notes Northern Ireland's place in the United Kingdom's customs territory, the need to protect the Good Friday or Belfast Agreement of 10 April 1998 in all its dimensions, and its commitment to unfettered access for Northern Ireland businesses to the whole of the UK market.

In respect of all goods moving from Northern Ireland to other parts of the United Kingdom's internal market, the United Kingdom confirms that export procedures under Regulation (EU) No 952/2013 will apply only where goods:

1. are placed under a procedure listed in Article 210 of that Regulation,
2. are in temporary storage in accordance with Article 144 of that Regulation,

3. are subject to provisions of Union law falling within the second sentence of Article 6(1) of the Windsor Framework<sup>1</sup> which prohibit or restrict the exportation of goods,
4. are placed under the export procedure within the Union in accordance with Title V and Title VIII of that Regulation, or
5. do not exceed EUR 3 000 in value and are packed or loaded for export shipment within the Union, in accordance with Article 221 of Regulation (EU) No 2015/2447.

The United Kingdom recalls its commitment to ensure full protection under international requirements and commitments that are relevant to the prohibitions and restrictions on the exportation of goods from the Union to third countries as set out in Union law.

The United Kingdom confirms it will provide to the Union meaningful information in relation to goods subject to prohibitions and restrictions moving from Northern Ireland to other parts of the United Kingdom as regards exports, transfer, brokering and transit of dual use items, exports of cultural goods and shipments of waste.

This Unilateral Declaration will replace the Unilateral Declaration by the United Kingdom of Great Britain and Northern Ireland in the Joint Committee on export declarations of 17 December 2020.

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<sup>1</sup> See Joint Declaration No XX/2023.

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of .../2023

on the democratic consent mechanism in Article 18 of the Windsor Framework<sup>1</sup>

The United Kingdom notes that the joint solutions announced in Windsor are intended to constitute a series of practical and sustainable measures to address, in a definitive way, deficiencies and situations unforeseen that have emerged since the Protocol on Ireland/Northern Ireland (‘the Protocol’) entered into force.

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<sup>1</sup> See Joint Declaration No XX/2023.

The United Kingdom recognises the importance of ensuring that these arrangements are always able to command the broadest possible support across the community in Northern Ireland, in line with its responsibility to uphold the Good Friday or Belfast Agreement of 10 April 1998, including its subsequent implementation agreements and arrangements, in all its parts – and with regard to its specific responsibilities to respect the identity, ethos and aspirations of both communities. The democratic consent mechanism in Article 18 of the Windsor Framework provides an ongoing and important safeguard in that respect, alongside which the United Kingdom is committed to commissioning an independent review in the circumstances set out in its Unilateral Declaration on consent<sup>1</sup>. In any such circumstances, whether following the first exercise of the democratic consent mechanism or thereafter, the United Kingdom commits to bring the recommendations of the review to the Joint Committee, recognising the responsibility of the Joint Committee under Article 164 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community to consider any matter of interest relating to an area covered by the Windsor Framework, and to seek appropriate ways and methods of preventing problems that might arise in areas covered by the Windsor Framework.

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<sup>1</sup> Declaration by Her Majesty's Government of the United Kingdom of Great Britain and Northern Ireland concerning the operation of the 'Democratic consent in Northern Ireland' provision of the Protocol on Ireland/Northern Ireland.



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UNILATERAL DECLARATION  
BY THE UNITED KINGDOM  
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AND NORTHERN IRELAND FROM THE EUROPEAN UNION  
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of .../2023

on strengthening enforcement action for goods moved in parcels  
from another part of the United Kingdom to Northern Ireland

Prior to the entirety of the provisions of Decision No .../2023<sup>1</sup> becoming applicable, the United Kingdom is committed to working with the Union to provide protection to the Union internal market by strengthening enforcement action concerning goods moved in parcels from another part of the United Kingdom to Northern Ireland. In that context, the United Kingdom undertakes to:

- Work with economic operators, notably fast parcels and postal operators, to make available to the United Kingdom Government and Union representatives commercial data on the movement of parcels, including the sender, the recipient and the description of the relevant goods. This data would support enforcement and compliance action, supplementing existing risk and intelligence led activity.

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<sup>1</sup> [to insert full title of the Joint Committee decision]

- Enhance existing co-operation between UK customs authorities and the European Commission, by collaborating on enforcement and compliance risks on the basis of the agreed operational arrangements referred to in Decision No .../2023.
  - The United Kingdom will regularly update the Specialised Committee on issues related to the implementation of the Windsor Framework<sup>1</sup> on the progress of the work carried out on the above-mentioned issues.
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<sup>1</sup> See Joint Declaration No .../2023.