

WITHDRAWAL AGREEMENT JOINT COMMITTEE ANNUAL REPORT FOR 2021

Report from the Secretariat to the Joint Committee on the implementation 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 (the Withdrawal Agreement) for the calendar year 2021

INTRODUCTION

1. The Withdrawal Agreement (Article 164) established a Joint Committee to supervise and facilitate the implementation and application of the Agreement. The Withdrawal Agreement requires the Joint Committee to issue an annual report, drawn up by the Secretariat¹, each calendar year. This report is provided pursuant to Article 164(6).
2. The Withdrawal Agreement (Article 164(2)) requires the Joint Committee to meet at least once a year. In 2021, the Joint Committee met twice, on 24 February and on 9 June. Meetings were held in a mixed in-person/video conference format, due to the COVID-19 pandemic.
3. In addition, the six Specialised Committees established by the Withdrawal Agreement² met on the following dates in 2021:
 - the Committee on citizens' rights: 23 February, 28 April, 17 June and 16 September;
 - the Committee on the other separation provisions: co-chairs agreed not to meet in 2021;
 - the Committee on issues related to the implementation of the Protocol on Ireland/Northern Ireland: 23 February, 26 March, 19 July and 24 September;
 - the Committee on issues related to the implementation of the Protocol relating to the Sovereign Base Areas in Cyprus: co-chairs agreed not to meet in 2021;
 - the Committee on issues related to the implementation of the Protocol on Gibraltar: 16 April;
 - the Committee on the financial provisions: 26 April and 12 November.
4. Moreover, aside from the formal meetings of the Withdrawal Agreement joint bodies, the EU and UK co-chairs of the Joint Committee held numerous virtual and in-person meetings throughout 2021 regarding the implementation of the Withdrawal Agreement including the Protocol on Ireland / Northern Ireland.
5. This report provides an overview of Withdrawal Agreement activity from 1 January 2021 to 31 December 2021. There are two sections: (1) Withdrawal Agreement Joint Committee activity in 2021 and (2) Withdrawal Agreement Specialised Committee activity in 2021. The report also contains a list of the joint and unilateral press statements following each meeting of the Joint Committee in 2021 in the annex.

¹ The Secretariat to the Joint Committee operates under the authority of the Joint Committee co-chairs to perform the tasks conferred on it, as outlined in the Rules of Procedure of the Joint Committee and Specialised Committees (Annex VIII). The Secretariat is composed of officials from His Majesty's Government of the United Kingdom and the European Commission.

² The Specialised Committees are established by Article 165 of the Withdrawal Agreement and governed by the Rules of Procedure in Annex VIII to the Withdrawal Agreement.

SECTION 1: Withdrawal Agreement Joint Committee activity in 2021

6. The EU hosted the 7th meeting of the Joint Committee in Brussels, as well as by video conference, on 24 February. The Joint Committee undertook a stocktake of Specialised Committees' activity. Concerning the Protocol on Ireland/Northern Ireland, the Joint Committee took stock of its operation and of work to find pragmatic solutions to the issues that had arisen in its operation. The parties acknowledged the importance of joint action to make the Protocol work for the benefit of everyone in Northern Ireland, including through further joint engagement with business groups and other stakeholders in Northern Ireland. The Joint Committee also discussed citizens' rights where the parties welcomed the constructive engagement to resolve issues on citizens' rights since the end of the transition period (31 December 2020), noting the need to resolve these issues and stressed the importance of communication and support to vulnerable citizens.
7. The UK hosted the 8th meeting of the Joint Committee in London, as well as by video conference, on 9 June. The Joint Committee undertook a stocktake of Specialised Committees' activity since its previous meeting, discussed the operation of the Protocol on Ireland/Northern Ireland and citizens' rights and adopted and signed the 2020 Withdrawal Agreement Annual Report. On the Protocol on Ireland / Northern Ireland, the Joint Committee also reflected on joint UK-EU engagement with businesses and civil society since its last meeting and discussed possible solutions to outstanding issues. On citizens' rights, the Joint Committee discussed the approaching deadline of 30 June 2021 by which residence applications were to be made by EU citizens in the UK, and UK nationals in several EU Member States. The UK's EU Settlement Scheme was also discussed where the EU raised the issue of the loss of residence status if EU citizens do not apply in time to change their status from pre-settled to settled and the lack of legal clarity for EU citizens holding a new UK residence status as to whether their rights are guaranteed by the Withdrawal Agreement or by the UK immigration law. The UK set out the continued success of the implementation of its EU Settlement Scheme where over 5 million applications by EU-citizens in the UK had been concluded. The UK registered its concern at the difficulties encountered by UK nationals trying to access benefits and services in some Member States and the issue of some Member States asking for additional documents to provide proof of status which are not required. Both parties underlined their determination to respect the rights of EU citizens and UK nationals and agreed to ensure that all outstanding issues are resolved swiftly.

SECTION 2: Withdrawal Agreement Specialised Committees activity in 2021

8. The **Specialised Committee on citizens' rights** has a key role in ensuring that UK nationals in the EU and EU citizens in the UK and their family members are afforded their rights and entitlements as set out in the Withdrawal Agreement. The Specialised Committee met four times in 2021.
9. The UK's Independent Monitoring Authority, established in accordance with Article 159 of the Withdrawal Agreement, took up its work and monitored the UK's implementation and application of Part Two ('Citizens' Rights') of the Withdrawal Agreement.
10. In the Specialised Committee meeting on 23 February, the Independent Monitoring Authority updated the Committee on starting its activity on monitoring the application of citizens' rights in the UK. In the meeting of 17 June, the civil society organisations 'British in Europe' and 'the3million' were invited to provide testimony on practical implementation issues.

11. Throughout 2021, the Specialised Committee received updates on the implementation of Part Two of the Withdrawal Agreement in the UK and the EU, including the UK's EU Settlement Scheme, the residence system and the deadlines for applications for a new residence status in EU Member States that have opted for a constitutive system under Article 18(1) of the Withdrawal Agreement.
12. The Specialised Committee served as a collaborative forum allowing both Parties to signal practical and legal difficulties encountered by their nationals that might cause real-life difficulties, notably around residence status and access to various benefits. Communication and information campaigns deployed by the European Commission, the EU Member States and the UK, with particular regard to mobilising people and reaching out to the vulnerable were discussed regularly.
13. The Specialised Committee prepared three joint reports on the implementation of citizens' rights (the 3rd³, 4th⁴ and 5th⁵ respectively) which were published by the EU and the UK on 28 May, 29 June and 22 September 2021. The Joint Reports were published until the expiry of the last deadline for applications for a new residence status in countries that have opted for a constitutive system under Article 18(1) of the Withdrawal Agreement. The last deadline expired on 31 December 2021. The reports provide information on administrative procedures, communication and support provided by the UK and the EU and its Member States in relation to the issuance of residence documents under Article 18 of the Withdrawal Agreement. The reports also provide statistical tables on the number of applications for a new residence status under Article 18(1) and the issuance of new residence documents under Article 18(4) by outcome.
14. The **Specialised Committee on the other separation provisions** co-chairs agreed not to meet in 2021. The co-chairs had a meeting in December 2021 and took stock of the state of play on the implementation of Part Three ('Separation Provisions') of the Withdrawal Agreement. The implementation of this Part continues with any remaining issues being addressed at technical level.
15. The **Specialised Committee on issues related to the implementation of the Protocol on Ireland / Northern Ireland** met four times in 2021. The Parties exchanged updates on the operation of the Protocol and took stock of the outstanding issues. Additionally, the Parties exchanged updates on the work of the Joint Consultative Working Group (JCWG) and engagement with stakeholders in Northern Ireland.
16. During the meeting on 23 February, the Specialised Committee considered the challenges posed by the end of the transition period. The Specialised Committee also discussed outstanding issues

³European Commission link to third report on residence:

ec.europa.eu/info/publications/third-joint-report-implementation-residence-rights-under-part-two-withdrawal-agreement_en

UK Government link to third report on residence:

www.gov.uk/government/publications/residence-rights-implementation-of-the-withdrawal-agreement-part-2-citizens-rights-third-joint-report-april-2021

⁴European Commission link to fourth report on residence:

ec.europa.eu/info/publications/fourth-joint-report-implementation-residence-rights-under-part-two-withdrawal-agreement_en

UK Government link to fourth on residence:

www.gov.uk/government/publications/residence-rights-implementation-of-the-withdrawal-agreement-part-2-citizens-rights-fourth-joint-report-june-2021

⁵European Commission link to fifth report on residence:

ec.europa.eu/info/publications/fifth-joint-report-implementation-residence-rights-under-part-two-withdrawal-agreement_en

UK Government link to fifth on residence:

www.gov.uk/government/publications/residence-rights-implementation-of-the-withdrawal-agreement-part-2-citizens-rights-fifth-joint-report-september-2021

and possible solutions, in particular regarding: customs; sanitary and phytosanitary (SPS) controls; supply of medicines to Northern Ireland; tariff rate quotas applicable in Northern Ireland; and pet travel from Great Britain to Northern Ireland. The Specialised Committee also noted that the JCWG Rules of Procedure were adopted on 29 January.

17. During the meeting on 26 March, the Specialised Committee set out a joint list of outstanding issues across the areas of SPS, customs, indirect taxation and international trade. Both sides reiterated the need to find solutions.
18. During the meeting on 19 July, the Specialised Committee took stock of the joint list of outstanding issues established in the previous meeting, with a focus on SPS issues, medicines, customs, EU access to UK IT systems, trade issues and VAT on second-hand cars moved from Great Britain to Northern Ireland. The Specialised Committee also took note of the extension of the grace period for chilled meats moved from Great Britain to Northern Ireland as well as the European Commission's suggested way forward on medicines.
19. During the meeting on 24 September, the Specialised Committee discussed updates on the outstanding issues including EU access to UK IT systems. The EU co-chair provided an update on the flexibilities that the EU had identified to address the issues the UK had raised concerning the movements of live animals from Great Britain to Northern Ireland. The EU co-chair also raised concerns around facilities for SPS official controls at points of entry into Northern Ireland. The UK co-chair stated the UK government's view that despite the extensive steps taken by the UK to operate the Protocol, it was not working in its current form and significant change was needed. The EU Co-Chair made clear that the EU would not renegotiate the Protocol but stood ready to identify practical solutions to real life problems in the operation in Northern Ireland. The Specialised Committee also took stock of the work of the JCWG.
20. In addition to the four meetings of the Specialised Committee, the co-chairs held round tables with business and civil society representatives from Northern Ireland on 23 April.
21. Throughout 2021, technical discussions took place between the meetings of the Specialised Committee. These discussions focused on the list of outstanding issues agreed in the Specialised Committee of 26 March, as well as other issues identified.
22. Aside from the Specialised Committee meetings, a number of significant developments concerning the application of the Protocol on Ireland / Northern Ireland took place in 2021.
 - a. Following informal discussions on 29 January 2021, the co-chairs of the Joint Committee met formally on 3 February 2021 and 11 February 2021 to consider outstanding issues on the Protocol on Northern Ireland/Ireland, and to prepare for the Joint Committee meeting held on 24 February 2021. Following frank but constructive discussions, they determined to work intensively to find solutions to outstanding issues that were workable on the ground.
 - b. On 2 March 2021, the UK Government stated its intention to unilaterally extend the grace periods in place concerning the movement of goods and pet travel from Great Britain to Northern Ireland in order to facilitate the flow of goods between Great Britain and Northern Ireland. In a statement on the same day, the European Commission Vice-President and EU co-chair of the Joint Committee expressed the EU's strong concerns over the UK's unilateral action.

- c. In response to the UK's unilateral action, the European Commission sent a letter of formal notice to the UK Government on 15 March. This marked the launch of formal legal proceedings against the UK under Article 12(4) of the Protocol, in conjunction with Article 258 of the Treaty on the Functioning of the European Union. Additionally, on the same day, Vice-President and EU co-chair Šefčovič sent a political letter to Minister of State and UK co-chair Lord Frost, in response to the UK Government's statements and guidance published on 3 and 4 March. The UK Government responded to the letter of formal notice on 14 May.
- d. On 17 June, the UK Government sent a letter proposing to extend the approach on chilled meat set out in its unilateral declaration of 17 December 2020 for three more months (until 30 September 2021). On 30 June, the UK Government made a formal unilateral declaration to the same effect. On the same day, in a separate unilateral statement, the EU took note of the UK's declaration.
- e. On 30 June, the European Commission announced a package of proposed solutions identified to address:
 - i. The continued long term supply of medicines from Great Britain to Northern Ireland;
 - ii. The crossing from Great Britain into Northern Ireland of guide dogs;
 - iii. A waiver of the obligation to show the motor insurance green card when arriving from Great Britain; and
 - iv. The movement of certain animals. To that effect it recalled the EU legislation adopted on 29 June 2021 to facilitate the movement of live animals by removing the need for re-tagging when animals move multiple times between Great Britain and Northern Ireland during their life. The European Commission underlined that it was working on further facilitations.
- f. On 21 July, the UK published a Command Paper, 'Northern Ireland Protocol: the way forward', setting out proposals to address the full range of issues it identified with the operation of the Protocol. This included proposals on customs, SPS, VAT & excise, subsidy control, governance, and the circulation of goods in Northern Ireland, which were aimed at delivering a new balance in the operation of the Protocol. The EU took note of the publication.
- g. On 23 July, the UK Government proposed to maintain the operation of the Protocol on the current basis, and to pause current legal actions.
- h. On 27 July, the EU announced that it had, at this stage, decided not to move to the next stage of the infringement procedure started in March.
- i. In a ministerial statement on 6 September, the UK Government announced that it would continue to operate the Protocol on the current basis including the grace periods and easements in force. In a statement on the same day, the European Commission took note of the unilateral UK ministerial statement. The European Commission also stated that, at that stage, it would not be moving to the next stage of the infringement procedure launched in March 2021, and would, for the moment, not open any new infringements. The European Commission reserved its rights in respect of such infringement proceedings.
- j. From September onwards, the UK and EU co-chairs and officials undertook sustained technical discussions throughout the autumn on both UK and EU proposals. These covered SPS, customs, VAT and excise, goods, state aid/subsidy control, medicines and governance.

- k. On 13 October, the European Commission put forward arrangements in four non-papers, for discussion with the UK, concerning:
 - i. a long-term solution to ensure the continued supply of medicines from Great Britain to Northern Ireland;
 - ii. proposals to strengthen the role for Northern Ireland stakeholders and authorities in the dealings of the Protocol;
 - iii. a long-term comprehensive solution in the sanitary and phyto-sanitary area;
 - iv. further facilitation and simplification for East/West Trade in the customs field.
- l. Following its announcement of 30 June, and extensive engagement with stakeholders and discussions with the UK authorities, on 17 December 2021, the European Commission tabled legislative proposals in order to ensure the continued long-term supply of human medicines from Great Britain to Northern Ireland (and also to address outstanding supply concerns in Cyprus, Ireland and Malta.) These proposals were designed to lead, once adopted, to medicines continuing to be available in Northern Ireland at the same time as in the rest of the United Kingdom, with specific conditions ensuring that UK-authorized medicines would not enter the EU Single Market. On 22 December, the European Commission also adopted a Notice on the application of the Union's pharmaceutical acquis in markets historically dependent on medicines supply from or through parts of the United Kingdom other than Northern Ireland in order to bridge the gap between the entry into force of the above mentioned new proposals and the previous notice which was due to expire on 31 December 2021. In addition, as regards medicinal products for veterinary use, the Notice provided one more year, that is until 31 December 2022, for companies to adjust to the changes brought about by the end of the transition period and the provisions of the Protocol on Ireland / Northern Ireland.

23. **The Joint Consultative Working Group**, established under Article 15 of the Protocol, adopted its Rules of Procedure at its meeting on 29 January 2021.

24. Throughout 2021, a regularised and functional process on information exchange was put in place between the EU and UK delegations, and the JCWG met eight times to discuss questions in relation to the information exchanged. In line with the obligations in the Protocol, the Union shared information with the UK pursuant to Article 15(3)(a), Article 15(3)(b), Article 15(3)(c) and Article 15(5) while the UK shared information with the Union pursuant to Article 15(3)(a), Article 15(3)(d) and Article 15(5). The co-chairs and secretariat developed collaborative processes for information exchange and mutual consultation.

25. The **Specialised Committee on issues related to the implementation of the Protocol relating to the Sovereign Base Areas in Cyprus** did not meet in 2021. There were technical discussions concerning the interpretation and implementation of Article 13 of the Protocol, on responsibility for implementation, as far as fisheries dealt with by Article 6 are concerned.

26. The **Specialised Committee on issues related to the implementation of the Protocol on Gibraltar** met on 16 April 2021. At the meeting, Article 1 (citizens' rights) in relation to the Protocol on Gibraltar was discussed. The EU also raised issues concerning the implementation of obligations under Article 3(3), related to the establishment of a system of traceability and security measures relating to tobacco products that ceased to apply at the end of the transition period. A technical meeting outside the scope and structure of the Specialised Committee was held on 21 May 2021 (followed by written technical exchanges) to discuss technical aspects of Article 3(3) of the Protocol and the implementation of the tobacco traceability obligation.

27. Articles 2 to 5 of the Protocol on Gibraltar (on air transport law; fiscal matters and protection of financial interests; environment protection and fishing; and cooperation in police and customs matters) ceased to apply at the end of the transition period on 31 December 2020. The co-chairs agreed that the Specialised Committee would meet as required, and at least once a year, to discuss citizens' rights matters as set out in Article 1 of the Protocol.
28. The **Specialised Committee on financial provisions** oversees the implementation of the financial provisions set out in Part V (Financial Provisions) of the Withdrawal Agreement. The Specialised Committee met twice in 2021. The Committee took stock and discussed the reporting package transmitted by the EU to the UK at the end of March 2021 as well as the April and September 2021 communications to the UK setting out the relevant amounts in relation to the settlement of the UK's net liabilities under the Withdrawal Agreement.

The Specialised Committee noted the positive engagement on the preparations for the third formal reporting package due at the end of March 2022 under the Withdrawal Agreement. The Committee also noted that all UK payments towards the settlement had been made on time and in full. Furthermore, the UK and the EU committed to continue working collaboratively on a range of implementation issues, in recognition of the mutual benefit of smooth implementation of the financial provisions of the Withdrawal Agreement.

CONCLUSION

29. In 2021, the joint bodies established by the Withdrawal Agreement met where necessary to facilitate the implementation and application of the Withdrawal Agreement. The Parties also undertook technical discussions between the formal meetings to seek progress on solutions.
30. The Joint Committee's actions during 2021 aimed at working towards solutions to outstanding issues and ensuring implementation of the Withdrawal Agreement, which both Parties remain committed to.

Signed in London, 24 March 2023

*For the Joint Committee
The co-chairs*

*Rt Hon James Cleverly MP
Secretary of State for Foreign,
Commonwealth & Development Affairs
UK co-chair*

*Maroš Šefčovič
Vice-President of the European Commission
EU co-chair*

Respective joint as well as UK and EU unilateral press statements following meetings of the Withdrawal Agreement Joint Committee in 2021

Joint Committee meeting of 24 February 2021:

Joint statement

https://ec.europa.eu/commission/presscorner/detail/en/statement_21_822

<https://www.gov.uk/government/news/joint-statement-by-the-co-chairs-of-the-eu-uk-joint-committee-24-february-2021>

Joint Committee meeting of 09 June 2021:

UK Government statement

<https://www.gov.uk/government/news/uk-statement-on-the-meeting-of-the-withdrawal-agreement-joint-committee-9-june-2021>

European Commission statement

https://ec.europa.eu/info/publications/statement-european-commission-following-eight-meeting-eu-uk-withdrawal-agreement-joint-committee_en