Miscellaneous No. 9 (2026)

Agreement

in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part

Brussels, 14 July 2026

[The Agreement has not been ratified by the United Kingdom]

Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of His Majesty
July 2026

CP 1645 Volume II of II

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SECTION M: Validating Authority

Please indicate the type of authority which has validated the Confiscation Request Form, if applicable:

☐ judge, court, public prosecutor

☐ another competent authority designated by the issuing Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor

Official name of the validating authority:

Name of its representative:

Post held (title/grade):

File no:

Address:

Tel. No: (country code) (area/city code)

Fax No: (country code) (area/city code)

E-mail:

Languages in which it is possible to communicate with the competent authority:

SECTION N: Central Authority

Please indicate the central authority responsible for the administrative transmission and receipt of the Confiscation Request Form in the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor:

Official name of the central authority:

Name of its representative:

Post held (title/grade):

File no:

Address:

Tel. No: (country code) (area/city code)

Fax No: (country code) (area/city code)

E-mail:

Languages in which it is possible to communicate with the competent authority:

SECTION O: Further information

1. Please indicate if the main contact point in the requesting Member State or the United Kingdom, in respect of Gibraltar, if it is the requesting actor, should be the:

   ☐ issuing authority

   ☐ competent authority

   ☐ central authority

2. If different from above, please provide the contact details of the person(s) to contact for additional information regarding this Confiscation Request Form:

   Name / Title / Organisation:

   Address:

   E-mail/Contact Phone No:

SECTION P: Annexes

The original or duly authenticated copy of the confiscation order must be provided with the Confiscation Request Form.

ANNEX 17

LIST OF UNION ACTS IN THE AREA OF ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING AS REFERRED TO IN ARTICLE 198 OF THE AGREEMENT

1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC[1], as amended by:

   – Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[2];
   – Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019[3];
   – Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023[4]; and
   – Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024[5].

2. Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing[6].

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1 OJ EU L 141, 5.6.2015, p. 73, ELI: http://data.europa.eu/eli/dir/2015/849/oj.
2 OJ EU L 156, 19.6.2018, p. 43, ELI: http://data.europa.eu/eli/dir/2018/843/oj.
3 OJ EU L 334, 27.12.2019, p. 155, ELI: http://data.europa.eu/eli/dir/2019/2177/oj.
4 OJ EU L 150, 9.6.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/1113/oj.
5 OJ EU L, 2024/1640, 19.6.2024, ELI: http://data.europa.eu/eli/dir/2024/1640/oj.
6 OJ EU L, 2024/1624, 19.6.2024,

ELI: http://data.europa.eu/eli/reg/2024/1624/oj.

3. Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849[1].

4. Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010[2].

5. Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849[3].

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[1] OJ EU L, 2024/1640, 19.6.2024, ELI: http://data.europa.eu/eli/dir/2024/1640/oj.

[2] OJ EU L, 2024/1620, 19.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1620/oj.

[3] OJ EU L 150, 9.6.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/1113/oj.

ANNEX 18

STATE AID SUBSTANTIVE RULES
AS REFERRED TO IN ARTICLE 201 OF THE AGREEMENT

Article 19 of this Agreement shall apply to the Union acts listed in this Annex, subject to the following paragraphs.

For the purposes of this Annex, "Union acts" shall also include all guidelines, notices and communications listed in this Annex.

This Annex applies pursuant to Article 201(1) of this Agreement.

The Parties note that this Annex contains Union acts on State aid granted by Member States as enforced by the European Commission. As regards State aid granted by the United Kingdom, in respect of Gibraltar, within the scope of Article 201(1) of this Agreement, such Union acts shall apply *mutatis mutandis*, including to the substantive assessment of State aid, as well as the enforcement procedures of its independent authority or body.

The relevant guidelines, notices and communications listed in this Annex shall be implemented in Gibraltar in the same manner as in the Union, and the independent authority or body of the United Kingdom, in respect of Gibraltar, shall apply them in the same way as the European Commission.

The Parties recognise that due to objective constraints resulting from the geographical specificities of Gibraltar, certain Union acts in this Annex may not be immediately relevant for the United Kingdom, in respect of Gibraltar, for example, as it may not currently have certain economic activities in its territory, such Union acts are otherwise impossible to be applied, or such Union acts regulate State aid measures that depend on Union legal provisions that do not apply to the United Kingdom, in respect of Gibraltar. The Parties note that the United Kingdom, in respect of Gibraltar, is not required to incorporate such Union acts into its domestic legal system until it has the respective economic activities regulated by those Union acts in its territory or unless it intends to grant aid potentially falling under such Union acts. In any event, its independent authority or body has to pay due regard without delay to the relevant Union acts in this Annex if called upon to assess State aid.

1.	State Aid Rules in the Treaty on the Functioning of the European Union[1] ("TFEU") Articles 107, 108 and 109 TFEU Article 106 TFEU, insofar as it concerns State aid Article 93 TFEU
2.	Acts referring to the notion of aid Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (OJ EU C 262, 19.7.2016, p. 1). Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ EU C 8, 11.1.2012, p. 4). Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ EU C 155, 20.6.2008, p. 10).
3.	Block exemption regulations
3.1	Enabling Regulation Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (OJ EU L 248, 24.9.2015, p. 1, ELI: http://data.europa.eu/eli/reg/2015/1588/oj), as amended by Council Regulation (EU) 2018/1911 of 26 November 2018 (OJ EU L 311, 7.12.2018, p. 8, ELI: http://data.europa.eu/eli/reg/2018/1911/oj).

[1] Consolidated version of the Treaty on the Functioning of the European Union (OJ EU C 326, 26.10.2012, p. 47).

3.2 General Block Exemption Regulation

Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ EU L 187, 26.6.2014, p. 1, ELI: http://data.europa.eu/eli/reg/2014/651/oj), as amended by:

– Commission Regulation (EU) 2017/1084 of 14 June 2017 (OJ EU L 156, 20.6.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/1084/oj);

– Commission Regulation (EU) 2020/972 of 2 July 2020 (OJ EU L 215, 7.7.2020, p. 3, ELI: http://data.europa.eu/eli/reg/2020/972/oj);

– Commission Regulation (EU) 2021/452 of 15 March 2021(OJ EU L 89, 16.3.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/452/oj);

– Commission Regulation (EU) 2021/1237 of 23 July 2021 (OJ EU L 270, 29.7.2021, p. 39, ELI: http://data.europa.eu/eli/reg/2021/1237/oj); and

– Commission Regulation (EU) 2023/1315 of 23 June 2023 (OJ EU L 167, 30.6.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/1315/oj).

3.3 Sectorial block exemption regulations

– Commission Regulation (EU) 2026/562 of 16 March 2026 declaring certain categories of aid in the rail, inland waterways and multimodal transport sector compatible with the internal market in application of Articles 93, 107 and 108 of the Treaty on the Functioning of the European Union (OJ EU L, 2026/562, 30.3.2026, ELI: http://data.europa.eu/eli/reg/2026/562/oj);

– Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ EU L 327, 21.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2472/oj), as amended by Commission Regulation (EU) 2023/2607 of 22 November 2023 (OJ EU L, 2023/2607, 23.11.2023, ELI: http://data.europa.eu/eli/reg/2023/2607/oj);

– Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) 1191/69 and 1107/70 (OJ EU L 315, 3.12.2007, p. 1, ELI: http://data.europa.eu/eli/reg/2007/1370/oj), as amended by Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 (OJ EU L 345, 23.12.2016, p. 22, ELI: http://data.europa.eu/eli/reg/2016/2338/oj);

– Communication from the Commission on interpretative guidelines concerning Regulation (EC) 1370/2007 on public passenger transport services by rail and by road (OJ EU C 92, 29.3.2014, p. 1); and

– Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ EU L 7, 11.1.2012, p. 3, ELI: http://data.europa.eu/eli/dec/2012/21(1)/oj).

3.4 *De minimis* aid regulations

– Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ EU L, 2023/2831, 15.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2831/oj); and

– Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ EU L, 2023/2832, 15.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2832/oj).

4. Procedural rules

– Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ EU L 248, 24.9.2015, p. 9, ELI: http://data.europa.eu/eli/reg/2015/1589/oj);

– Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ EU L 140, 30.4.2004, p. 1, ELI: http://data.europa.eu/eli/reg/2004/794/oj) as amended by:

Commission Regulation (EC) No 1627/2006 of 24 October 2006 (OJ EU L 302, 1.11.2006, p. 10, ELI: http://data.europa.eu/eli/reg/2006/1627/oj);

Commission Regulation (EC) No 271/2008 of 30 January 2008 (OJ EU L 82, 25.3.2008, p. 1, ELI: http://data.europa.eu/eli/reg/2008/271/oj);

Commission Regulation (EC) No 257/2009 of 24 March 2009 (OJ EU L 81, 27.3.2009, p. 15, ELI: http://data.europa.eu/eli/reg/2009/257/oj);

Commission Regulation (EC) No 1125/2009 of 23 November 2009 (OJ EU L 308, 24.11.2009, p. 5, ELI: http://data.europa.eu/eli/reg/2009/1125/oj);

Commission Regulation (EU) No 372/2014 of 9 April 2014 (OJ EU L 109, 12.4.2014, p. 14, ELI: http://data.europa.eu/eli/reg/2014/372/oj);

Commission Regulation (EU) 2015/2282 of 27 November 2015 (OJ EU L 325, 10.12.2015, p. 1, ELI: http://data.europa.eu/eli/reg/2015/2282/oj);

Commission Regulation (EU) 2016/246 of 3 February 2016 (OJ EU L 51, 26.2.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/246/oj);

Commission Regulation (EU) 2016/2105 of 1 December 2016 (OJ EU L 327, 2.12.2016, p. 19, ELI: http://data.europa.eu/eli/reg/2016/2105/oj);

Commission Implementing Regulation (EU) 2025/905 of 12 May 2025 (OJ EU L, 2025/905, 13.6.2025, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2025/905/oj);

– Communication from the Commission – Commission Notice on the recovery of unlawful and incompatible State aid (OJ EU C 247, 23.7.2019, p. 1);

– Commission notice on the determination of the applicable rules for the assessment of unlawful State aid (OJ EU C 119, 22.5.2002, p. 22);

– Communication from the Commission – Commission Notice on the enforcement of State aid rules by national courts (OJ EU C 305, 30.7.2021, p. 1);

– Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ EU C 14, 19.1.2008, p. 6);

– Communication from the Commission – Code of Best Practice for the conduct of State aid control procedures (OJ EU C, C/2025/2810, 13.6.2025, ELI: http://data.europa.eu/eli/C/2025/2810/oj); and

– Commission Communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions (OJ EU C 297, 9.12.2003, p. 6).

5.	Compatibility rules
5.1	Important Projects of Common European Interest – Communication from the Commission – Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (OJ EU C 528, 30.12.2021, p. 10).
5.2	Agricultural aid – Communication from the Commission – Guidelines for State aid in the agricultural and forestry sectors and in rural areas (OJ EU C 485, 21.12.2022, p. 1).

5.3	Regional aid – Communication from the Commission – Guidelines on regional State aid (OJ EU C 153, 29.4.2021, p. 1).
5.4	Research and development and innovation aid – Communication from the Commission – Framework for State aid for research and development and innovation (OJ EU C 414, 28.10.2022, p. 1).
5.5	Risk capital aid – Communication from the Commission – Guidelines on State aid to promote risk finance investments (OJ EU C 508, 16.12.2021, p. 1).
5.6	Rescue and restructuring aid – Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ EU C 249, 31.7.2014, p. 1), as prolonged by Communication from the Commission amending the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, as regards the period of application (OJ EU C, C/2023/1212, 29.11.2023, ELI: http://data.europa.eu/eli/C/2023/1212/oj).
5.7	Training aid – Communication from the Commission – Criteria for the analysis of the compatibility of State aid for training subject to individual notification (OJ EU C 188, 11.8.2009, p. 1).
5.8	Employment aid – Communication from the Commission – Criteria for the analysis of the compatibility of State aid for the employment of disadvantaged and disabled workers subject to individual notification (OJ EU C 188, 11.8.2009, p. 6).

5.9	Temporary rules in response to the economic and financial crisis – Communication from the Commission – The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (OJ EU C 10, 15.1.2009, p. 2); – Communication from the Commission on the treatment of impaired assets in the Community banking sector (OJ EU C 72, 26.3.2009, p. 1); – Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (OJ EU C 195, 19.8.2009, p. 9); – Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis (OJ EU C 329, 7.12.2010, p. 7); – Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis (OJ EU C 356, 6.12.2011, p. 7); and – Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis ('Banking Communication') (OJ EU C 216, 30.7.2013, p. 1).
5.10	Export credit insurance – Communication from the Commission on the application of Article 107 and 108 of the Treaty on the Functioning of the European Union to short-term export credit insurance (OJ EU C 497, 10.12.2021, p. 5).

5.11 Energy and environment

5.11.1 Environment and Energy

– Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ EU C 80, 18.2.2022, p. 1);

– Communication from the Commission – Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (OJ EU C 317, 25.9.2020, p. 5).

5.11.2 Electricity (stranded costs)

– Commission Communication relating to the methodology for analysis of State aid linked to stranded costs (Commission letter SG (2001) D/290869 of 6 August 2001).

5.11.3 Clean Industrial Deal

– Communication from the Commission – Framework for State Aid measures to support the Clean Industrial Deal (Clean Industrial Deal State Aid Framework) (OJ EU C, C/2025/3602, 4.7.2025, ELI: http://data.europa.eu/eli/C/2025/3602/oj).

5.12 Basic industries and manufacturing (steel)

– Communication from the Commission concerning certain aspects of the treatment of competition cases resulting from the expiry of the ECSC Treaty (OJ EC C 152, 26.6.2002, p. 5).

5.13 Postal services

– Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (OJ EC C 39, 6.2.1998, p. 2).

5.14	Transport and Infrastructure – Commission communication – Community guidelines on State aid to maritime transport (OJ EU C 13, 17.1.2004, p. 3); – Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea (OJ EU C 317, 12.12.2008, p. 10); – Communication from the Commission providing guidance on State aid to ship management companies (OJ EU C 132, 11.6.2009, p. 6); – Communication from the Commission – Guidelines on State aid to airports and airlines (OJ EU C 99, 4.4.2014, p. 3); – Communication from the Commission – Guidelines on State aid for land and multimodal transport (OJ EU C, C/2026/1656, 30.3.2026, ELI: http://data.europa.eu/eli/C/2026/1656/oj).
5.15	Services of general economic interest (SGEI) – Communication from the Commission – European Union framework for State aid in the form of public service compensation (OJ EU C 8, 11.1.2012, p. 15).
6.	Transparency of financial relations between Member States and public undertakings – Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ EU L 318, 17.11.2006, p. 17, ELI: http://data.europa.eu/eli/dir/2006/111/oj) as amended by Commission Directive 2025/1442 of 18 July 2025 (OJ EU L, 2025/1442, 21.7.2025, ELI: http://data.europa.eu/eli/dir/2025/1442/oj).
7.	SME Definition – Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ EU L 124, 20.5.2003, p. 36).

ANNEX 19

MODALITIES RELATED TO THE PROOF THAT GOODS SATISFY THE CONDITIONS OF ARTICLES 242 AND 248 IN APPLICATION OF ARTICLE 247(3) OF THE AGREEMENT

ARTICLE 1

Goods moving from the Union to Gibraltar

1. Goods dispatched to Gibraltar that are in free circulation within the Union in accordance with Article 242 of this Agreement at the moment of their presentation to a designated customs post, shall be moved by land or by sea using the New Computerised Transit System ("NCTS") applying the code T2GI. The transit data of the goods as well as the additional information referred to in paragraph 2 of this Article shall be declared in the NCTS at the designated customs post, acting as office of departure, and the goods shall be moved following the transit process to the competent authorities of the United Kingdom, in respect of Gibraltar, acting as office of destination.

By derogation from the first subparagraph, professional equipment as defined in Article 1 of Annex B.2 to the Convention on Temporary Admission, done at Istanbul on 26 June 1990 ("Istanbul Convention on Temporary Admission"), may be moved by land without using the NCTS.

2. For control purposes, a register shall be kept by the designated customs post containing details of all exports bound for Gibraltar, including reference to the commodity codes, quantities and value of goods based on an invoice provided by the holder of the transit procedure, the date of acceptance of the transit declaration, the items of charge, the master reference number (T2GI XXX), and any other data necessary for the calculation of the transaction tax and the excise duty, where applicable. This information shall be transmitted on item level to the competent authorities of the United Kingdom, in respect of Gibraltar, for the calculation of the amount of the transaction tax and excise duty due at the moment of presentation of the goods in Gibraltar to the competent authorities of the United Kingdom, in respect of Gibraltar, via the special transit procedure defined in paragraph 1.

3. The special transit procedure shall end at the competent authorities of the United Kingdom, in respect of Gibraltar.

The competent authorities of the United Kingdom, in respect of Gibraltar, using an "arrival advice" message, shall notify the designated customs post that acted as office of departure of the arrival of the goods on the day the goods are presented in Gibraltar at the office of destination and shall forward a "control results" message to the office of departure no later than three working days after the goods are presented at the office of destination together with a proof that the transaction tax and the excise duties, where relevant, have been levied in Gibraltar on the goods, unless the goods are covered by the derogation referred to in paragraph 5. In cases where such a derogation applies, the competent authorities of the United Kingdom, in respect of Gibraltar, shall forward to the office of departure a message indicating that the goods have been included in a special procedure for tax purposes (warehousing, inward processing or temporary admission) instead of the proof that the transaction tax and the excise duties, where relevant, have been levied in Gibraltar.

4. Where the messages or the proofs on transaction tax and excise levied, where relevant, are not presented, or where the transit movement could not be discharged, an entry shall be made in the register referred to in paragraph 2 by the designated customs post. In this case, the relevant designated customs post shall treat the movement as an irregular entry and levy the applicable VAT and excise duties in the Member State of the designated customs post. The holder of the transit procedure shall be liable for the relevant amount. This application shall be without prejudice to any corrections which might prove necessary, for instance, in light of investigations conducted in the context of the transit arrangements or as a result of action undertaken in the context of mutual assistance as laid down in the Protocol on mutual administrative assistance in customs matters and the Protocol on administrative cooperation and combating fraud in the field of value added tax and excise duty and on mutual assistance for the recovery of claims relating to taxes and duties.

5. By derogation from paragraphs 3 and 4, Union goods, for which there is a justified business need to suspend levying of transaction tax and excise duties, where applicable, may benefit from the following exception. Those goods may be released by the competent authorities of the United Kingdom, in respect of Gibraltar, for tax purposes for a warehousing procedure in an authorised customs warehouse in Gibraltar, in the case of a customs warehouse for tax purposes for ship supplies without minimum storage period, otherwise for a period between one month and nine months or for an inward processing procedure or for a temporary admission procedure for a period of up to three months, to take effect simultaneously with the ending of the T2GI transit procedure. In such cases, the competent authorities of the United Kingdom, in respect of Gibraltar, shall supply information on a case by case basis to the designated customs post which acted as office of departure for the T2GI transit procedure regarding goods which have been taken out of the special procedure for tax purposes to be placed on the market in Gibraltar, taken out of Gibraltar under the re-export procedure, or destroyed with no waste remaining.

6. In addition, in the case of discharging the special procedures for tax purposes by placing the goods on the market in Gibraltar, the competent authorities of the United Kingdom, in respect of Gibraltar, shall supply to the designated customs post, which acted as office of departure for the T2GI transit procedure, on a monthly basis, proof that transaction tax and, if applicable, excise duties, have been levied by the United Kingdom, in respect of Gibraltar, for goods placed on the market in Gibraltar.

In the case of discharging the special procedures for tax purposes by taking the goods out of Gibraltar or destroying them with no waste remaining, the competent authorities of the United Kingdom, in respect of Gibraltar, shall supply to the designated customs post, which acted as office of departure for the T2GI transit procedure, on a case by case basis, proof of their exit from Gibraltar or proof of that destruction.

A period of more than three months for the discharge may be authorised in the case of an inward processing procedure or a temporary admission procedure, at the time the application is made, or by way of extension, if there are duly justified circumstances accepted by the designated customs post, which acted as office of departure for the T2GI transit procedure.

Where the messages or the proofs of discharge are not presented or where the special procedures could not be discharged within the period of nine months, or within a longer period authorised in the case of an inward processing procedure or temporary admission procedure under duly justified circumstances, an entry shall be made in the register referred to in paragraph 2 by the designated customs post. In this case, the competent authorities of the United Kingdom, in respect of Gibraltar, shall transfer to the Member State of the office of departure the amount of the VAT and excise duties applicable at the time of discharge of the transit movement in that Member State.

7. The designated customs posts listed in Appendix 1 to Annex 21 shall be the exit customs office for all exports of goods from the Union into Gibraltar.

Goods which would be eligible for partial relief from import duty according to the Union rules on temporary admission, may be granted full relief from indirect tax by the United Kingdom, in respect of Gibraltar, pursuant to an authorisation for temporary admission granted in accordance with paragraph 5 of this Article.

Professional equipment as defined in Article 1 of Annex B.2 of the Istanbul Convention on Temporary Admission may also be placed in the temporary admission procedure by the act of their entry into Gibraltar.

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

ARTICLE 2

Goods moving from Gibraltar to the Union

1. Where goods in free circulation or in a customs warehousing, inward processing or temporary admission procedure for tax purposes in Gibraltar are presented to the competent authorities of the United Kingdom, in respect of Gibraltar, with a view to be moved to the Union, the NCTS shall be used applying the code T2GI. The transit data of the goods shall be declared in the NCTS and the goods shall be moved following the transit process to the designated customs post in the Union acting as office of destination, in order to furnish evidence that the goods in question are in free circulation in Gibraltar.

By derogation from the first subparagraph, professional equipment as defined in Article 1 of Annex B.2 of the Istanbul Convention on Temporary Admission may be moved by land without using the NCTS.

2. The procedure of Article 1(3) shall apply *mutatis mutandis*. Where the office

of departure in Gibraltar has not received the information required to prove that the goods have arrived in a designated customs post, the United Kingdom, in respect of Gibraltar, shall collect the relevant VAT and excise duties applicable in the Member State of the designated customs post and shall transfer the taxes levied to the competent authorities of that Member State. However, in the event that the competent authorities of the United Kingdom, in respect of Gibraltar, can provide conclusive evidence that the goods under transit have ultimately remained in Gibraltar, transaction tax and, if applicable, Gibraltar excise duties shall be levied instead.

3. Administrative arrangements between the competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, shall set out the practical modalities for the implementation of paragraph 2.

ARTICLE 3

Applicable Union law

1. For the purposes of this Annex:

(a) the rules of the Union transit procedure shall apply, including as amended or replaced in future as well as any Union act implementing or supplementing those Union rules;

(b) the United Kingdom, in respect of Gibraltar, shall apply the rules of the Union customs warehousing procedure, inward processing and temporary admission procedures, authorisations and supervision listed in paragraph 3 *mutatis mutandis* without prejudice to the special provisions laid down in this Annex, provided that the authorisation does not cover goods referred to in Annex 21. Article 19 of this Agreement shall apply.

2. Guarantee documents and certificates issued in accordance with Articles 1 and 2 shall bear the word "Gibraltar".

3. For the purposes of point (b) of paragraph 1, the Union law to be applied by the United Kingdom, in respect of Gibraltar, shall be:

(a) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[1], as amended by:

(i) Regulation (EU) 2016/2339 of the European Parliament and of the Council of 14 December 2016[2];

(ii) Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019[3];

(iii) Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019[4]; and

(iv) Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022[5];

Definition of a decision: Article 5, point (39);

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1 OJ EU L 269, 10.10.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/952/oj.

2 OJ EU L 354, 23.12.2016, p. 32, ELI: http://data.europa.eu/eli/reg/2016/2339/oj.

3 OJ EU L 83, 25.3.2019, p. 38, ELI: http://data.europa.eu/eli/reg/2019/474/oj.

4 OJ EU L 111, 25.4.2019, p. 54, ELI: http://data.europa.eu/eli/reg/2019/632/oj.

5 OJ EU L 317, 9.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2399/oj.

Provision of information to the customs authorities: Article 15;

Decisions relating to the application of Customs legislation: Articles 22 to 32;

Appeals: Articles 43 to 45;

Keeping of documents and other information: Article 51;

Incurrence of a customs debt: Articles 77 to 88;

Guarantee for a potential or existing Customs debt: Articles 89 to 100;

Recovery, payment, repayment and remission: Articles 101 to 126;

Provisions applying to all customs declarations: Articles 170 to 176;

Verification and release of goods: Articles 188 to 194;

Disposal of goods: Articles 197 to 200;

Special Procedures – General provisions: Articles 210 to 224;

Customs warehousing: Articles 237 to 242;

Temporary Admission: Articles 250 to 253; and

Inward Processing: Articles 255 to 258;

(b) 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[1], as amended by:

(i) Commission Delegated Regulation (EU) 2016/341 of 17 December 2015[2];

(ii) Commission Delegated Regulation (EU) 2016/651 of 5 April 2016[3];

(iii) Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018[4];

(iv) Commission Delegated Regulation (EU) 2018/1118 of 7 June 2018[5];

(v) Commission Delegated Regulation (EU) 2019/841 of 14 March 2019[6];

(vi) Commission Delegated Regulation (EU) 2019/1143 of 14 March 2019[7];

(vii) Commission Delegated Regulation (EU) 2020/877 of 3 April 2020[8];

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1 OJ EU L 343, 29.12.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj.

2 OJ EU L 69, 15.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg_del/2016/341/oj.

3 OJ EU L 111, 27.4.2016, p. 1, ELI: http://data.europa.eu/eli/reg_del/2016/651/oj.

4 OJ EU L 192, 30.7.2018, p. 1, ELI: http://data.europa.eu/eli/reg_del/2018/1063/oj.

5 OJ EU L 204, 13.8.2018, p. 11, ELI: http://data.europa.eu/eli/reg_del/2018/1118/oj.

6 OJ EU L 138, 24.5.2019, p. 76, ELI: http://data.europa.eu/eli/reg_del/2019/841/oj.

7 OJ EU L 181, 5.7.2019, p. 2, ELI: http://data.europa.eu/eli/reg_del/2019/1143/oj.

8 OJ EU L 203, 26.6.2020, p. 1, ELI: http://data.europa.eu/eli/reg_del/2020/877/oj.

(viii) Commission Delegated Regulation (EU) 2020/2191 of 20 November 2020[1];

(ix) Commission Delegated Regulation (EU) 2021/234 of 7 December 2020[2];

(x) Commission Delegated Regulation (EU) 2021/1934 of 30 July 2021[3]; and

(xi) Commission Delegated Regulation (EU) 2023/398 of 14 December 2022[4];

Definitions: Article 1, points (2), (3), (4), (12), (17), (23), (29), (30), (32), (33), (36), (41) and (42);

Decisions relating to the application of customs legislation: Articles 7a to 18;

Incurrence of a customs debt: Articles 72, 74, 76 and 79;

Guarantee for a potential or existing customs debt: Articles 81 to 84;

Notification of the customs debt and claims for payment from guaranteeing association: Articles 87 and 88;

Payment of the customs debt: Articles 89 to 91;

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1 OJ EU L 434, 23.12.2020, p. 8, ELI: http://data.europa.eu/eli/reg_del/2020/2191/oj.

2 OJ EU L 63, 23.2.2021, p. 1, ELI: http://data.europa.eu/eli/reg_del/2021/234/oj.

3 OJ EU L 396, 10.11.2021, p. 10, ELI: http://data.europa.eu/eli/reg_del/2021/1934/oj.

4 OJ EU L 54, 22.2.2023, p. 1, ELI: http://data.europa.eu/eli/reg_del/2023/398/oj.

Repayment and remission of customs debt: Articles 92 to 97;

Extinguishment of a customs debt: Article 103;

Provisions applying to all customs declarations: Article 148;

Special procedures – Application for an authorisation: Articles 161, 162, 164, 165, 166 to 175, 177, 178 to 180 and 182;

Customs Warehousing: Articles 201 to 203;

Temporary Admission: Articles 204 to 238;

Inward processing: Articles 240 and 241; and

Information to be provided in the bill of discharge: Annex 71-06;

(c) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code[1], as amended by:

(i) Commission Implementing Regulation (EU) 2017/989 of 8 June 2017[2];

(ii) Commission Implementing Regulation (EU) 2018/604 of 18 April 2018[3];

(iii) Commission Implementing Regulation (EU) 2019/1394

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1 OJ EU L 343, 29.12.2015, p. 558, ELI: http://data.europa.eu/eli/reg_impl/2015/2447/oj.

2 OJ EU L 149, 13.6.2017, p. 19, ELI: http://data.europa.eu/eli/reg_impl/2017/989/oj.

3 OJ EU L 101, 20.4.2018, p. 22, ELI: http://data.europa.eu/eli/reg_impl/2018/604/oj.

of 10 September 2019[1];

(iv) Commission Implementing Regulation (EU) 2020/893 of 29 June 2020[2];

(v) Commission Implementing Regulation (EU) 2020/1727 of 18 November 2020[3];

(vi) Commission Implementing Regulation (EU) 2020/2038 of 10 December 2020[4];

(vii) Commission Implementing Regulation (EU) 2021/235 of 8 February 2021[5]; and

(viii) Commission Implementing Regulation (EU) 2022/2334 of 29 November 2022[6];

Customs debt and guarantees: Articles 148 to 158;

Recovery, repayment and remission of customs debt: Articles 165, 166, 170, 171, 172 to 181;

Placing goods under a customs procedure: Article 221;

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1 OJ EU L 234, 11.9.2019, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2019/1394/oj.

2 OJ EU L 206, 30.6.2020, p. 8, ELI: http://data.europa.eu/eli/reg_impl/2020/893/oj.

3 OJ EU L 387, 19.11.2020, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2020/1727/oj.

4 OJ EU L 416, 11.12.2020, p. 48, ELI: http://data.europa.eu/eli/reg_impl/2020/2038/oj.

5 OJ EU L 63, 23.2.2021, p. 386, ELI: http://data.europa.eu/eli/reg_impl/2021/235/oj.

6 OJ EU L 309, 30.11.2022, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2022/2334/oj.

Verification and release of goods: Articles 238 to 247;

Disposal of goods: Articles 248 to 250;

Special procedures – general provisions for application and decisions for an authorisation: Articles 258 to 271;

Temporary Admission: Articles 322 and 323; and

Inward processing: Articles 324 and 325.

ARTICLE 4

Union goods entering into Gibraltar by sea

In application of Article 247(4) of this Agreement, Union goods that have been cleared for exit from the Union in the designated customs post in Algeciras may be transported by sea directly from this designated customs post via the shortest route to Gibraltar, arriving within two hours from exiting the port under cover of a T2GI transit procedure, as provided in Article 1(1) to (7) of this Annex. The ship shall be entirely unloaded in Gibraltar.

ARTICLE 5

Union goods leaving Gibraltar

Union goods which are to be exported from Gibraltar as ship supplies may leave the territory of Gibraltar via the port or airport, provided that they comply with the Union customs and indirect taxation provisions applicable for comparable transactions in the Union. Article 8(1) of Annex 21 applies, with the exception of the presentation of the goods at a designated customs post.

ANNEX 20

PROVISIONS OF UNION LAW
REFERRED TO IN ARTICLE 247(1) OF THE AGREEMENT

1. Union acts and other equivalent legislation as necessary to avoid distortions with the neighbouring region in relation to Article 247(1) of this Agreement shall be applied in the United Kingdom, in respect of Gibraltar. The areas covered are as follows:

   (a) customs legislation as defined in the Union Customs Code, with the exclusion of all tariff quotas, and of tariffs set at a level lower than those contained in the Union's schedule of concessions and commitments on trade in goods, incorporated into the GATT 1994 on the basis of international trade agreements, or by other Union legislation granting unilateral tariff preferences;

   (b) Union acts governing import and export prohibitions and restrictions on grounds of, inter alia, public morality, public policy or public security; the protection of the health and life of humans, animals or plants; the protection of the environment; the protection of national treasures possessing artistic, historic or archaeological value; the protection of industrial or commercial property, including controls on drug precursors, goods infringing certain intellectual property rights and cash; as well as Union acts concerning the implementation of fishery conservation and management measures and the implementation of commercial policy measures, safety and security measures or related to any border formalities and procedures to be controlled and applied by customs authorities;

(c) any other Union acts the implementation of which comes wholly or partly within the jurisdiction of the customs authorities of the Member States;

(d) Union legislation on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the European Commission to ensure the correct application of the law on customs and agricultural matters, as last amended by Regulation (EU) 2015/1525 of the European Parliament and the Council[1];

(e) Union acts setting product rules, requirements and standards applicable in the Union's internal market, including on tobacco and related products, chemicals, waste and sanitary and phytosanitary measures;

(f) the Treaty establishing the European Atomic Energy Community and the relevant Union acts, which have as a legal base that Treaty;

(g) Union acts governing trade statistics, general trade related aspects, trade defence instruments and bilateral safeguards;

(h) Union legislation establishing a carbon border adjustment mechanism; and

(i) Union legislation concerning VAT, excise, and administrative cooperation and recovery assistance.

The provisions referred to in this paragraph shall be those applicable at the

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[1] Regulation (EU) 2015/1525 of the European Parliament and of the Council of 9 September 2015 amending Council Regulation (EC) No 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ EU L 243, 18.9.2015, p. 1, ELI: http://data.europa.eu/eli/reg/2015/1525/oj).

time in the Union.

2. The provisions referred to in paragraph 1 shall be determined in greater detail by the Cooperation Council.

3. The proper collection of customs duties in Gibraltar shall be considered as part of the protection of the financial interests of the Union.

ANNEX 21

PROCEDURE FOR GOODS ENTERING INTO AND EXPORTED FROM GIBRALTAR FROM AND TO COUNTRIES AND TERRITORIES OUTSIDE THE CUSTOMS UNION IN ACCORDANCE WITH ARTICLE 247(3) OF THE AGREEMENT

ARTICLE 1

Imports from countries and territories outside the customs union into Gibraltar

1. The Union shall be authorised to carry out, on behalf of the competent authorities of the United Kingdom, in respect of Gibraltar, customs clearance formalities necessary for the release for free circulation of non-Union goods presented at a designated customs post, or for the placement of such goods under a customs warehousing, inward processing or temporary admission procedure as defined in Union customs legislation. The Union shall be also responsible for the authorisation procedure, supervision and remaining aspects of these procedures according to Union customs legislation, including where the authorisation also covers goods referred to in Annex 19. Such customs clearance and authorisation formalities shall be carried out by a designated customs post, except sanitary and phytosanitary related customs clearance formalities, which shall be carried out at the first entry point of the Union when required by Union legislation. This is without prejudice to the trading licences and trading authorisations that may need to be granted by the competent authorities of the United Kingdom, in respect of Gibraltar, to economic operators with respect to activities taking place in Gibraltar.

2. The customs clearance formalities shall be carried out in accordance with those provisions of Union law that would apply if the goods were customs cleared in the Union. However, all tariff quotas, and tariffs set at a level lower than those contained in the Union's schedule of concessions and commitments on trade in goods, incorporated into the GATT 1994 on the basis of international trade agreements, or by other Union legislation granting unilateral tariff preferences shall not apply, with the exception of those referred to in Appendix 2 to this Annex and under the conditions established in the relevant international agreement.

3. Where import duties are payable on goods pursuant to paragraph 1, those duties shall be levied in the relevant designated customs post on behalf of the United Kingdom, in respect of Gibraltar. The United Kingdom, in respect of Gibraltar, shall not refund these sums directly or indirectly.

4. The import duties shall be entered in the customs accounts within the time-limits laid down by the relevant legislation of the Union.

For control purposes, duties entered in the accounts shall also be recorded in the register, referred to in Article 6(1), containing details of all imports bound for Gibraltar, including reference to the goods imported, the date of acceptance of the import declaration, the items of charge, the amount of duty involved and the master reference number.

5. For the purposes of this Annex, rules of the Union transit procedure shall apply, including as amended or replaced in future as well as any Union act implementing or supplementing those Union rules, without prejudice to the special provisions laid down in this Annex.

ARTICLE 2

Movements of goods to Gibraltar from designated customs posts of the Union

1. Where goods specified in Article 1 and bound for Gibraltar are released for free circulation or for special procedures of customs warehousing, inward processing or temporary admission at one of the designated customs posts, NCTS shall be used thereafter applying the code T1GI. The transit data of the goods as well as the additional information referred to in Article 6 shall be declared in the NCTS at the designated customs post, acting as office of departure, and the goods shall be moved following the transit process to the competent authorities of the United Kingdom, in respect of Gibraltar, acting as customs office of destination.

2. The customs office of destination in Gibraltar, using an "arrival advice" message, shall notify the designated customs post that acted as office of departure of the arrival of the goods on the day the goods are presented in Gibraltar at the office of destination and shall forward a "control results" message to the office of departure at the latest on the third working day following the day the goods are presented at the office of destination, together with proof that the transaction tax and the excise duties, where relevant, have been levied in Gibraltar on the goods, unless the goods are covered by the exception referred to in Article 6(3) or by a special procedure under paragraph 1 of this Article.

ARTICLE 3

Collection of import duty and entry into the relevant accounts

1. With regard to the establishment, monitoring and making available of import duty collected on goods destined for Gibraltar, Council Regulation (EU, Euratom) No 609/2014[1] shall apply *mutatis mutandis*. In particular, the following provisions shall apply:

(a) Member States with designated customs posts shall maintain separate Gibraltar accounts for import duty collected on goods destined for Gibraltar, identical to those provided for as regards the Union's own resources under Article 6(3) of Regulation (EU, Euratom) No 609/2014; and

(b) The import duties relating to the T1GI document shall be established by the designated customs posts in accordance with the applicable Union law and entered in the accounts referred to in point (a).

2. The procedure referred to in paragraph 1 shall apply *mutatis mutandis* to processed products and to goods moved into the territory of Gibraltar for which a customs debt has arisen.

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[1] Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ EU L 168, 7.6.2014, p. 39, ELI: http://data.europa.eu/eli/reg/2014/609/oj).

3. The Member States shall, pursuant to the first subparagraph of Article 6(4) of Regulation (EU, Euratom) No 609/2014, send to the European Commission a statement of their accounts referred to in point (a) of paragraph 1 of this Article. The statement shall be established in the same way as the statements established for own resources and sent to the European Commission together with those relating to own resources. The statements shall however also indicate the total amount of import duties collected at each designated customs post and a breakdown on transaction level shall be provided to the European Commission on request.

4. The supporting documents shall be kept in accordance with the first and second paragraphs of Article 3 of Regulation (EU, Euratom) No 609/2014. These documents and the other documents relating to own resources shall be filed separately.

5. Corrections to established entitlements or to the accounts made after 31 December of the third year following the year of the initial establishment shall not be entered in the accounts, except on points notified before this date either by the European Commission or by a Member State or by the United Kingdom, in respect of Gibraltar.

6. Article 2 of Council Regulation (EU, Euratom) 2021/768[1] shall apply. The inspection measures in question shall also apply to such documents within the meaning of point (c) of Article 2(3) of that Regulation which prove that the goods have arrived in Gibraltar.

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[1] Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014 (OJ EU L 165, 11.5.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/768/oj).

7. Member States shall credit to the European Commission's account provided for in Article 9 of Regulation (EU, Euratom) No 609/2014, within the time limits indicated in Article 10(1) of that Regulation, the entitlements entered in the accounts in accordance with point (a) of paragraph 1 of this Article. Member States shall retain, by way of collection costs, a percentage of the import duties collected on behalf of the United Kingdom, in respect of Gibraltar, in accordance with the applicable retention rate in the Union.

8. The Member States shall be released from the obligation to place at the disposal of the European Commission the amounts corresponding to the duties recorded for the United Kingdom, in respect of Gibraltar, only if the conditions laid down in Article 13(2) of Regulation (EU, Euratom) No 609/2014 have been fulfilled.

9. The European Commission shall transfer the amounts credited to an account opened by the United Kingdom, in respect of Gibraltar, within thirty days from the date of notification by a Member State that an amount has been credited. The United Kingdom, in respect of Gibraltar, shall inform the European Commission of the details of the account to be credited and shall bear any charges on this account.

10. In the implementation of paragraph 1 of this Article, Articles 4 to 7 shall apply.

ARTICLE 4

Completion of accounting procedures at designated customs posts

1. The import duty shall be entered in the accounts of the United Kingdom, in respect of Gibraltar, by a procedure analogous to that detailed in the first subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014 in accordance with the provisions of that Article. However, the authorities of the Member States with designated customs posts may decide not to make an entry in the accounts of the United Kingdom, in respect of Gibraltar if the established duties for which security has been provided have been challenged and might upon settlement of the disputes be subject to change. In this case, pending the outcome of the ensuing national administrative or legal procedures undertaken by the competent authorities, the amount of import duties shall be recorded in the separate accounts of the United Kingdom, in respect of Gibraltar, by a procedure analogous to that detailed in the second subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014.

2. For the purposes of paragraph 1, the following shall be considered to be "competent authorities":

(a) for any question relating to implementation of the laws, regulations or administrative provisions applicable to customs matters, the administrative or judicial authorities of the Member State which carried out the customs clearance or, where appropriate, those of the Union;

(b) for any question relating to procedural provisions, the administrative or judicial authorities of the Member State which carried out the customs clearance; and

(c) for any question relating to implementation concerning the forced recovery of debts, the judicial authorities of the United Kingdom, in respect of Gibraltar, in Gibraltar or the competent authorities within the Union in their territory.

ARTICLE 5

Discharge of the special transit procedure

1. The special transit procedure shall be discharged by the customs office of departure when it is possible to establish, on the basis of a comparison of the data available to the customs office of departure and those available to the customs office of destination, that the procedure has ended correctly.

2. In cases where the special transit procedure cannot be discharged and, in any event, no later than three months after the release of the goods for transit, an entry shall be made in the register referred to in Article 6(1) of this Annex and a correction shall be made to the initial entry in the accounts of the United Kingdom, in respect of Gibraltar. In this case, the import duties shall be established as the Union's own resources and entered in the accounts detailed in the first subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014 or, where appropriate, in the separate accounts referred to in the second subparagraph of Article 6(3) of that Regulation. This shall be without prejudice to any corrections which might prove necessary, for instance, in light of investigations conducted in the context of the transit arrangements or as a result of action undertaken in the context of mutual assistance as laid down in the Protocol on mutual administrative assistance in customs matters and the Protocol on administrative cooperation and combating fraud in the field of value added tax and excise duty and on mutual assistance for the recovery of claims relating to taxes and duties.

ARTICLE 6

Transaction tax and excise duties

1. For control purposes, a register shall also be kept by the designated customs post containing details of all imports bound for Gibraltar, including:

(a) reference to the duties entered in the accounts;

(b) the commodity codes;

(c) the quantities and value of goods;

(d) the date of acceptance of the declaration;

(e) the items of charge;

(f) the amount of duty involved;

(g) the master reference number (T1GIXXX); and

(h) any other data necessary for the calculation of the transaction tax and, where applicable, the excise duty.

This information shall be transmitted to the competent authorities of the United Kingdom, in respect of Gibraltar, for the calculation of the amount of the transaction tax and excise duty, where applicable, due at the moment of presentation of the goods in Gibraltar to the competent authorities of the United Kingdom, in respect of Gibraltar.

2. Where the messages or the proofs on transaction tax and excise duties, where relevant, are not presented, or where the transit movement could not be discharged, an entry shall be made in the register referred to in paragraph 1. In this case, the relevant designated customs post shall treat the movement as an irregular entry and levy the VAT and excise duties applicable in the Member State of the designated customs post. The holder of the transit procedure shall be liable for the relevant amount. This application of VAT and excise duty shall be without prejudice to any corrections which might prove necessary in the light of an investigation conducted or as a result of action undertaken in the context of mutual assistance as laid down in the Protocol on mutual administrative assistance in customs matters and the Protocol on administrative cooperation and combating fraud in the field of value added tax and excise duty and on mutual assistance for the recovery of claims relating to taxes and duties.

3. By derogation from paragraph 2, goods released for free circulation with regard to import duties for which there is a justified business need to suspend levying of transaction tax and excise duties may benefit from the exceptions established in Article 1(5) of Annex 19, the conditions and procedure laid down in Article 1(5) to (9) of Annex 19 being applicable *mutatis mutandis*.

ARTICLE 7

Completion of the border formalities for goods placed under a special procedure other than transit

1. The procedures referred to in Articles 3 and 4 shall apply *mutatis mutandis* to processed products and to goods moved into the territory of Gibraltar for which a customs debt has arisen.

2. The customs declaration for the discharge of the inward processing or the temporary admission procedures shall be submitted to the designated customs post where the declaration for the placement of the goods under that procedure was

presented. Processed products derived from the goods which were placed under the inward processing procedure or the goods which were placed in inward processing or temporary admission procedure in Gibraltar must be physically presented in that designated customs post when the customs declaration for discharge is submitted.

3. In exceptional and duly justified circumstances, goods or processed products derived from the goods placed under an inward processing procedure or goods placed under a temporary admission procedure may leave Gibraltar by sea to countries and territories outside the customs union from the port in Gibraltar without a physical presentation in the designated customs post. The holder of the authorisation shall submit a re-export declaration at the designated customs post that granted the inward processing authorisation for the goods in accordance with Article 8(1), at least 48 hours before the effective removal from Gibraltar port. The goods must be physically present in Gibraltar port at the moment the re-export declaration is submitted to the designated customs post. This designated customs post shall discharge the inward processing procedure once the holder of the authorisation provides proof that the goods have left the customs union.

4. In exceptional and duly justified circumstances, goods arriving by sea to the port in Gibraltar from countries and territories outside the customs union can be placed under an inward processing or temporary admission procedure. In addition, fuel for commercial seagoing vessels which is to be placed under the customs warehousing procedure for subsequent use in the context of ship supplies may arrive by sea to the port of Gibraltar. The customs declaration shall be sent to a designated customs post and the goods shall not be moved from the port until the release of the goods for the relevant special procedures by the designated customs post.

ARTICLE 8

Export to countries and territories outside the customs union from Gibraltar

1. Customs clearance operations relating to exports from Gibraltar to countries and territories outside the customs union shall be carried out at any designated customs post.

The customs clearance operations relating to exports referred to in the first subparagraph shall be carried out by the designated customs posts in accordance with those provisions of Union law that would apply if the goods were exported from the Union.

2. Where the goods are presented to the competent authorities of the United Kingdom, in respect of Gibraltar, for the purposes of paragraph 1, those authorities shall issue a T1GI or T2GI document, which shall be submitted to a designated customs post which will act as customs office of destination. Where goods in Gibraltar are presented to the competent authorities of the United Kingdom, in respect of Gibraltar, with a view to be moved to the Union, the NCTS shall be used applying the code T1GI or T2GI as the case may be (re-export from a customs warehouse or after inward processing or temporary admission). The transit data of the goods shall be declared in the NCTS and the goods moved following the transit process to the designated customs post acting as office of destination.

3. The procedure of Article 5 shall apply *mutatis mutandis*. Where the customs office of departure in Gibraltar has not received the information required to prove that the goods have arrived in a designated customs post, the United Kingdom, in respect of Gibraltar, shall collect, in the case of code T2GI, the relevant VAT and excise duties applicable in the Member State of the designated customs post and shall transfer the taxes levied to the competent authorities of that Member State. However, in the event that the competent authorities of the United Kingdom, in respect of Gibraltar, can provide conclusive evidence that the goods under transit have ultimately remained in Gibraltar, transaction tax and, where applicable, Gibraltar excise duties shall be levied instead.

In the case of T1GI, the customs office of departure shall inform the designated customs post acting as office of destination in the Union, which shall establish the customs duties, VAT and excise duties, where applicable.

4. Administrative arrangements between the competent authorities within the Union and the competent authorities of the United Kingdom, in respect of Gibraltar, shall set out the practical modalities for the implementation of paragraph 3.

5. Ship supplies may leave the territory of Gibraltar via the port or airport solely in accordance with the Union customs and indirect taxation provisions applicable for comparable transactions in the Union. Paragraph 1 applies with the exception of the presentation of the goods at a designated customs post.

Appendix 1

DESIGNATED CUSTOMS POSTS

1. This Appendix includes the list of customs posts designated by the Union for the purposes of this Agreement ("designated customs posts"), of which there shall be no fewer than three and which shall be located in the Kingdom of Spain, as follows:

   (a) La Línea de la Concepción;

   (b) Algeciras; and

   (c) Sagunto

2. However, a subsidiary designated customs post shall be designated in the Portuguese Republic to be accessible for the purposes of this Agreement and to function exclusively in the event that none of the designated customs posts in the Kingdom of Spain are accessible for over 24 hours because of unforeseeable circumstances or for reasons of force majeure. In such case, the European Commission shall communicate without delay to the Portuguese Republic the need to activate the functions of the subsidiary designated customs posts that shall apply the business continuity procedures under the Union customs provisions.

Appendix 2

Where the goods would be eligible to preferential tariff treatment set out in the agreement below, the respective tariff quotas and tariffs and, as the case may be, procedures of verification and administrative cooperation shall be applied:

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[1].

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[1] OJ EU L 149, 30.4.2021, p. 10,
ELI: http://data.europa.eu/eli/agree_internation/2021/689(1)/oj.

ANNEX 22

PRACTICAL MODALITIES FOR THE APPLICATION OF ARTICLE 265 OF THE AGREEMENT

ARTICLE 1

Joint visits to Gibraltar

1. The competent authorities within the Union shall submit a notification to the competent authorities of the United Kingdom, in respect of Gibraltar, for the purpose of carrying out a joint visit by representatives of the competent authorities within the Union and of the competent authorities of the United Kingdom, in respect of Gibraltar, to inspect the relevant aircraft, ships, infrastructures and facilities in Gibraltar where a risk to the Union's internal market for goods has been identified.

2. The competent authorities of the United Kingdom, in respect of Gibraltar, shall make themselves available so that the visit can be carried out jointly with the competent authorities within the Union.

3. The practical modalities for the visits carried out in accordance with this Article shall be laid down in administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

ARTICLE 2

Actions and measures

1. Without prejudice to Articles 260 to 264 of this Agreement, the actions and measures that can be undertaken during the joint visits shall include the following:

(a) verification of the online information, including customs documents, to be provided in real time by the competent authorities of the United Kingdom, in respect of Gibraltar, regarding ships and aircraft entering and exiting Gibraltar port and airport, in particular for risk assessment purposes;

(b) inspections of ships and aircraft at Gibraltar port or airport, to verify that goods are not loaded or unloaded from these ships and aircraft otherwise than in accordance with Title II of Part Three of this Agreement;

(c) selective controls of goods carried in ships and aircraft at Gibraltar port or airport based on a risk assessment;

(d) random and risk-based inspection of goods brought by passengers of ships and aircraft, to verify that these passengers do not carry prohibited goods, or goods in quantities which exceed those permitted on the basis of this Agreement without prejudice to Annex 23; and

(e) inspection measures as foreseen in Article 3(6) of Annex 21.

The competent authorities of the United Kingdom, in respect of Gibraltar, shall carry out the actions and measures expeditiously.

2. Without prejudice to Articles 260 to 264 of this Agreement, the competent authorities within the Union shall have a continued real-time online access to the following information:

(a) time schedule of all incoming and outgoing ships and aircraft at Gibraltar port and airport;

(b) arrival and leaving notices of all ships, boats and aircraft;

(c) any available customs documents with regard to the ships and aircraft referred to in point (a); and

(d) number and characteristics of all previous checks carried out by the competent authorities of the United Kingdom, in respect of Gibraltar, on crew and passengers of all ships and aircraft referred to in point (a) entering or exiting Gibraltar port and airport.

ARTICLE 3

Enforcement and follow-up of joint visits

1. Without prejudice to Article 252 of this Agreement, if the competent authorities of the United Kingdom, in respect of Gibraltar, fail to comply with their obligations under Article 1(2) of this Annex, the movement of commercial goods into or from the port, and where allowed, in the airport in Gibraltar shall be suspended after notification by the competent authorities within the Union to the European Commission. Any such suspension shall end at the point the competent authorities of the United Kingdom, in respect of Gibraltar, comply with their obligations under Article 1(2) of this Annex.

2. The competent authorities of the United Kingdom, in respect of Gibraltar, shall inform the competent authorities within the Union of the measures and sanctions taken following the findings of a joint visit.

ARTICLE 4

Data protection

The competent authorities within the Union may use information as referred to in this Annex only for the purpose of exercising their rights under the Agreement. The Union shall ensure that the competent authorities within the Union do not disclose information other than to the institutions, bodies, offices and agencies of the Union, unless they have been so authorised by the competent authorities of the United Kingdom, in respect of Gibraltar. The competent authorities of the United Kingdom, in respect of Gibraltar, may not decline to authorise such disclosure except for duly justified reasons.

ARTICLE 5

Information from designated customs posts

The competent authorities of the United Kingdom, in respect of Gibraltar, shall be entitled to request written information on how trade destined for Gibraltar is being administered. Such information shall be provided by the designated customs post as soon as possible.

ANNEX 23

PROVISIONS ON GOODS, PETS AND CASH CARRIED BY TRAVELLERS IN ACCORDANCE WITH ARTICLE 247(3) AND ARTICLE 267 OF THE AGREEMENT

SECTION 1

CASH CONTROL

ARTICLE 1

1. For the purposes of this Annex, the following definitions apply:

(a) "bearer-negotiable instruments" means instruments other than currency which entitle their holders to claim a financial amount upon presentation of the instruments without having to prove their identity or entitlement to that amount. Those instruments are:

(i) traveller's cheques; and

(ii) cheques, promissory notes or money orders that are either in bearer form, signed but with the payee's name omitted, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery;

(b) "cash" means currency, bearer negotiable instruments, commodities used as highly liquid stores of value and pre-paid cards, as per Regulation (EU) 2018/1672 of the European Parliament and the Council[1] and Commission Implementing Regulation (EU) 2021/776[2];

(c) "commodity used as a highly-liquid store of value" means a good, as listed in point 1 of Annex I of Regulation (EU) 2018/1672, that presents a high ratio between its value and its volume and that can easily be converted into currency through accessible trading markets while incurring only modest transaction costs;

(d) "competent authorities" means the customs authorities of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain – depending on the destination; and

(e) "currency" means banknotes and coins that are in circulation as a medium of exchange or that have been in circulation as a medium of exchange and can still be exchanged through financial institutions or central banks for banknotes and coins that are in circulation as a medium of exchange.

2. Article 19 of this Agreement shall apply.

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[1] Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ EU L 284, 12.11.2018, p. 6, ELI: http://data.europa.eu/eli/reg/2018/1672/oj).

[2] Commission Implementing Regulation (EU) 2021/776 of 11 May 2021 establishing templates for certain forms as well as technical rules for the effective exchange of information under Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls on cash entering or leaving the Union (OJ EU L 167, 12.5.2021, p. 6, ELI: http://data.europa.eu/eli/reg_impl/2021/776/oj).

ARTICLE 2

1. Carriers who carry cash of a value of EUR 10 000 or more shall declare that cash to the competent authorities in the airport as a general rule when entering or leaving Gibraltar and make it available to them for control. The obligation to declare cash shall not be deemed to be fulfilled if the information provided is incorrect or incomplete or if the cash is not made available for control.

2. The declaration referred to in paragraph 1 shall provide details about the following:

(a) the carrier, including full name, contact details, including address, date and place of birth, nationality and identification document number;

(b) the owner of the cash, including the full name, contact details, including address, date and place of birth, nationality and identification document number, where the owner is a natural person, or the full name, contact details, including address, registration number and, where available, VAT identification number, where the owner is a legal person;

(c) where available, the intended recipient of the cash, including the full name, contact details, including address, date and place of birth, nationality and identification document number, where the intended recipient is a natural person, or the full name, contact details, including address, registration number and, where available, VAT identification number, where the intended recipient is a legal person;

(d) the nature and the amount or value of the cash;

(e) the economic provenance of the cash;

(f) the intended use of the cash;

(g) the transport route; and

(h) the means of transport.

3. The details listed in paragraph 2 shall be provided in writing or electronically, using the declaration form referred to in Appendix 1 to this Annex. An endorsed copy of the declaration shall be delivered to the declarant upon request.

ARTICLE 3

1. In order to verify compliance with the obligation to declare accompanied cash laid down in Article 2, the competent authorities shall have the power to carry out controls on natural persons, their luggage and their means of transport, in accordance with the conditions established in this Agreement and laid down in domestic law. These controls shall be carried out on the premises of Gibraltar airport as a general rule, including as regards passengers arriving or leaving via Gibraltar port.

2. If the obligation to declare accompanied cash under Article 2 has not been fulfilled, the competent authorities shall compose, in writing or in an electronic form, an ex officio declaration which shall contain to the extent possible the details listed in Article 2(2).

3. For the purposes of Article 4, the competent authorities shall also exercise the powers conferred on them under this Article.

ARTICLE 4

Where the competent authorities detect a carrier with an amount of cash below the threshold referred to in Article 2 and that there are indications that the cash is related to criminal activity, they shall record that information and the details listed in Article 2(2).

ARTICLE 5

1. The competent authorities may temporarily detain cash by means of an administrative decision in accordance with the conditions laid down in this Agreement and the domestic law where:

(a) the obligation to declare accompanied cash under Article 2 of this Annex has not been fulfilled; or

(b) there are indications that the cash, irrespective of the amount, is related to criminal activity.

2. The administrative decision referred to in paragraph 1 shall be subject to an effective remedy in accordance with procedures provided for in domestic law. The competent authorities shall notify a statement of reasons for the administrative decision to:

(a) the person required to make the declaration in accordance with Article 2; or

(b) the person required to provide the information in accordance with Article 4.

3. The period of temporary detention shall be strictly limited under domestic law to the time required for the competent authorities to determine whether the circumstances of the case warrant further detention. The period of temporary

detention shall not exceed 30 days. After the competent authorities carry out a thorough assessment of the necessity and proportionality of a further temporary detention, they may decide to extend the period of temporary detention to a maximum of 90 days. Where no determination is made regarding further detention of the cash within that period or if a determination is made that the circumstances of the case do not warrant further detention, the cash shall be immediately released to:

(a) the person from whom the cash was temporarily detained in the situations referred to in Article 2; or

(b) the person from whom the cash was temporarily detained in the situations referred to in Article 4.

ARTICLE 6

The competent authority shall transmit the information obtained in the cash declarations and during their controls to the Financial Intelligence Unit ("FIU") competent for the United Kingdom, in respect of Gibraltar.

ARTICLE 7

The United Kingdom, in respect of Gibraltar, shall introduce penalties which shall apply in the event of failure to comply with the obligation to declare accompanied cash laid down in Article 2. Such penalties shall be effective, proportionate and dissuasive.

SECTION 2

TRAVELLERS' ALLOWANCES

ARTICLE 8

The United Kingdom, in respect of Gibraltar, shall, on the basis of either monetary thresholds or quantitative limits which shall not exceed those provided for in this Annex, exempt from customs duties and indirect taxation goods imported in the personal luggage of travellers, provided that the imports are of a non-commercial character.

ARTICLE 9

For the purposes of the application of the exemptions, personal luggage shall be regarded as the whole of the luggage which a traveller is able to present to the customs authorities upon arrival, as well as luggage which they present later to the same authorities, subject to proof that such luggage was registered as accompanied luggage, at the time of their departure, with the company which has been responsible for conveying them. Fuel other than that referred to in Article 15 shall not be regarded as personal luggage.

ARTICLE 10

1. For the purposes of the application of the exemptions and without prejudice to Articles 11 to 17, imports shall be regarded as being of a non-commercial character if they consist exclusively of goods for the personal or family use of travellers, or of goods intended as presents. The frequency with which the goods are imported by travellers, their nature or their quantity must not be such as to indicate that they are being imported for commercial reasons.

2. Goods imported in the personal luggage of travellers exceeding the monetary

thresholds or quantitative limits provided for in this Annex, but still considered non-commercial in accordance with paragraph 1 of this Article, shall be subject to the declarations, controls and checks established in Article 22(2).

ARTICLE 11

1. The United Kingdom, in respect of Gibraltar, shall exempt from customs duties and indirect taxation imports of non-commercial goods in the case of air and sea travellers, other than those referred to in Articles 12, 13 and 15, the total value of which does not exceed the equivalent of EUR 430 per person.

The United Kingdom, in respect of Gibraltar, and the Union shall exempt from customs duties and indirect taxation imports of non-commercial goods in the case of travellers by land, other than those referred to in Articles 12, 13 and 15, the total value of which does not exceed the equivalent of EUR 300 per person.

2. In the case of travellers under 15 years old, whatever their means of transport, the monetary thresholds referred to in paragraph 1 shall be EUR 175.

3. For the purpose of applying the monetary thresholds, the value of an individual item may not be split up.

4. The value of the personal luggage of a traveller, which is imported temporarily or is re-imported following its temporary export, and the value of medicinal products required to meet the personal needs of a traveller shall not be taken into consideration for the purpose of applying the exemptions referred to in paragraphs 1 and 2.

ARTICLE 12

1. The United Kingdom, in respect of Gibraltar, shall exempt from customs duties and indirect taxation imports via air and sea of the following types of tobacco product:

(a) 200 cigarettes or 80 cigarettes in the case of crew members of a means of transport used for border crossing travel;

(b) 100 cigarillos;

(c) 50 cigars; and

(d) 250 g smoking tobacco.

2. The Union and the United Kingdom, in respect of Gibraltar, shall exempt from customs duties and indirect taxation imports by land of the following types of tobacco product:

(a) 200 cigarettes or 80 cigarettes in the case of residents or frontier-zone workers;

(b) 100 cigarillos;

(c) 50 cigars; and

(d) 250 g smoking tobacco.

3. Each amount specified in points (a) to (d) of paragraphs 1 and 2 shall represent, for the purposes of paragraph 4, 100 % of the total allowance for tobacco products. Cigarillos may not exceed a maximum weight of three grams each.

4. In the case of any one traveller, the exemption may be applied to any combination of tobacco products, provided that the aggregate of the percentages used up from the individual allowances does not exceed 100 %.

ARTICLE 13

1. The United Kingdom, in respect of Gibraltar, shall exempt from customs duties and indirect taxation alcohol and alcoholic beverages other than still wine and beer, subject to the following quantitative limits:

(a) a total of one litre of alcohol and alcoholic beverages of an alcoholic strength exceeding 22 % vol., or of undenatured ethyl alcohol of 80 % vol. and over; and

(b) a total of two litres of alcohol and alcoholic beverages of an alcoholic strength not exceeding 22 % vol.

Each of the amounts specified in points (a) and (b) represent, for the purposes of paragraph 2, 100 % of the total allowance for alcohol and alcoholic beverages.

2. In the case of any one traveller, the exemption may be applied to any combination of the types of alcohol and alcoholic beverage referred to in paragraph 1, provided that the aggregate of the percentages used up from the individual allowances does not exceed 100 %.

3. The United Kingdom, in respect of Gibraltar, shall exempt from indirect taxation a total of four litres of still wine and 16 litres of beer.

ARTICLE 14

Exemptions under Article 12 or 13 shall not apply in the case of travellers under 17 years of age.

ARTICLE 15

The United Kingdom, in respect of Gibraltar, shall exempt from customs duties and indirect taxation, in the case of any one means of motor transport, the fuel contained in the standard tank and a quantity of fuel not exceeding 10 litres contained in a portable container.

ARTICLE 16

The value of goods referred to in Article 12, 13 or 15 shall not be taken into consideration for the purpose of applying the exemption provided for in Article 11.

ARTICLE 17

Goods brought by travellers of a non-commercial nature in accordance with Articles 8 to 16 moving between the Union and Gibraltar shall not be subject to the reimbursement of indirect taxes when leaving the territory of one and entering the territory of the other.

ARTICLE 18

At the end of the transitory period as laid down in Article 2 of Annex 24 or as determined in accordance with Article 248 and notwithstanding Article 247(5) of this Agreement:

(a) the Union shall take the measures necessary to ensure that non-commercial goods in the luggage of travellers from Gibraltar via land or from Gibraltar airport or port are treated as transactions originating in the Kingdom of Spain as regards both harmonised excise duties and VAT provided that a system has been put in place in Gibraltar applying excise duties and transaction tax, including rates and exemptions as provided for in this Agreement;

(b) the United Kingdom, in respect of Gibraltar, shall take the measures necessary to ensure that non-commercial goods in the luggage of travellers to Gibraltar via land or from an airport or port within the Union are treated as transactions originating in Gibraltar as regards both harmonised excise duties and transaction tax provided that a system has been put in place in Gibraltar applying excise duties and transaction tax, including rates and exemptions as provided for in this Agreement; and

(c) where a distortion under point (b) of Article 248(5) has been established by the independent consultative body and the United Kingdom, in respect of Gibraltar, has not complied with its obligation under Article 248(5), the Parties may reintroduce allowances for non-commercial goods in the luggage of travellers. The Parties may not reintroduce such allowances where the Union has invoked the safeguard procedure under Article 249.

SECTION 3

FOOD, PLANTS, PLANT PRODUCTS AND PETS

ARTICLE 19

1. With regard to the personal luggage and the pet animals which accompany travellers entering the port and airport in Gibraltar, the following provisions of Union law shall apply in the United Kingdom, in respect of Gibraltar:

(a) Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ("Animal Health Law")[1] – Part VI (Articles 244 to 256);

(b) Commission Delegated Regulation (EU) 2026/131 of 20 January 2026 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council, as regards animal health requirements for non-commercial movement of pet animals[2];

(c) Commission Implementing Regulation (EU) 2026/636 of 20 March 2026 adopting lists of third countries or territories that comply with certain conditions for non-commercial movement of pet animals[3];

(d) Commission Implementing Regulation (EU) 2026/705 of 20 March 2026 establishing model identification documents and model declarations for non-commercial movements of pet animals[4];

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1 OJ EU L 84, 31.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/429/oj.
2 OJ EU L, 2026/131, 27.3.2026, ELI: http://data.europa.eu/eli/reg_del/2026/131/oj.
3 OJ EU L, 2026/636, 27.3.2026, ELI: http://data.europa.eu/eli/reg_impl/2026/636/oj.
4 OJ EU L, 2026/705, 27.3.2026, ELI: http://data.europa.eu/eli/reg_impl/2026/705/oj.

(e) Commission Implementing Regulation (EU) 2026/766 of 8 April 2026 amending and correcting Implementing Regulation (EU) 2021/620 as regards disease-free status from infestation with *Echinococcus multilocularis* and from infection with Bluetongue virus respectively, and repealing Implementing Regulation (EU) 2018/878[1];

(f) 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, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC[2];

(g) Articles 7, 8, 9, 11 and 12 of Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011[3];

(h) Articles 164 and 165 of Commission Delegated Regulation (EU) 2020/692

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1 OJ EU L, 2026/766, 16.4.2026, ELI: http://data.europa.eu/eli/reg_impl/2026/766/oj.

2 OJ EU L 95, 7.4.2017, p. 1,ELI: http://data.europa.eu/eli/reg/2017/625/oj.

3 OJ EU L 321, 12.12.2019, p. 45, ELI: http://data.europa.eu/eli/reg_del/2019/2122/oj.

of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin[1];

(i) Article 3(s) of Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and of the Council[2];

(j) Article 45 and Articles 71 to 77 of Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC[3]; and

(k) Commission Implementing Regulation (EU) 2020/178 of 31 January 2020 on the presentation of information to passengers arriving from third countries and to clients of postal services and of certain professional operators concerning the prohibitions as regards the introduction of plants, plant products and other objects into the Union territory in accordance with Regulation (EU) 2016/2031 of the European Parliament and of the Council[4].

2. Procedures and controls established in the legislation listed in paragraph 1

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1 OJ EU L 174, 3.6.2020, p. 379, ELI: http://data.europa.eu/eli/reg_del/2020/692/oj.

2 OJ EU L 114, 31.3.2021, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2021/404/oj.

3 OJ EU L 317, 23.11.2016, p. 4, ELI: http://data.europa.eu/eli/reg/2016/2031/oj.

4 OJ EU L 37, 10.2.2020, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2020/178/oj.

shall not apply to personal luggage and the pet animals brought by travellers moving between the Union and Gibraltar through the land border.

3. Article 19 of this Agreement shall apply.

SECTION 4

FINAL COMMON PROVISIONS

ARTICLE 20

1. Products brought into the Union by travellers via land immediately after entering through Gibraltar port or airport are exempted from the procedures applicable to goods, pets and cash established in this Annex.

2. For the purposes of the application of paragraph 1, the Parties shall ensure that goods in the luggage of passengers coming through Gibraltar port are transferred immediately to Gibraltar airport, as a general rule, for the purpose of undergoing the necessary checks, together and under the same conditions as the passengers themselves as foreseen in Article 29(3) of this Agreement.

ARTICLE 21

The relevant current and future Union legislation concerning the following shall apply in relation to goods of this Annex entering and leaving Gibraltar as specified by the Specialised Committee on Economy and Trade:

(a) prohibitions and restrictions, including notably the rules in relation to arms, dual use, cultural goods and the CITES; and

(b) the obligation to impose sanctions.

ARTICLE 22

1. Administrative arrangements shall be established between the United

Kingdom, in respect of Gibraltar, and the Kingdom of Spain to exchange information on declarations and information obtained under this Annex and in relation to the application of procedures, controls and checks on goods, cash and pets carried by passengers entering Gibraltar or the Union via land, as well as in relation to the Union legislation referred to in Article 21.

2. The competent authorities within the Union shall establish a counter, serving as a branch office of a designated customs post, in Gibraltar airport for the sole purpose of declarations, controls and checks:

(a) concerning goods brought by travellers from outside the customs union into Gibraltar or for goods to be brought by travellers into the Union from Gibraltar via land, sea or air; and

(b) concerning cash to be entered into the Union via land, sea or air.

3. Without prejudice to paragraph 1, controls and checks may be implemented by the competent authorities of the United Kingdom, in respect of Gibraltar, on those goods carried by travellers between the Union and Gibraltar at any moment and at any point on their respective customs territory, including the land border, when considered necessary.

Appendix 1

CASH DECLARATION FORM[1]

[1] Commission Implementing Regulation (EU) 2021/776 of 11 May 2021 establishing templates for certain forms as well as technical rules for the effective exchange of information under Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls on cash entering or leaving the Union (OJ EU L 167, 12.5.2021, p. 6, ELI: http://data.europa.eu/eli/reg_impl/2021/776/oj).

CASH DECLARATION
Article 3 of Regulation (EU) 2018/1672

For official use	Reference number	

1. I am	☐ entering the European Union (EU)	☐ leaving the EU

2. Details of the carrier of the cash

First name(s)		Nationality	
Last name(s)		Personal identification number*	
Gender	☐ male ☐ female ☐ other	Address Street* and number *	street / number
Date of birth	DD MM YYYY	Town	
Place of birth	town / country	Postal / ZIP code*	
ID document	☐passport ☐ID card ☐other(specify)_____	Country	
ID document number		Telephone number*	
Country of issue		Email address*	
Date of issue	DD MM YYYY		

3. Transport details

Country of first departure		Departure date	DD MM YYYY
Country of final destination		Arrival date	DD MM YYYY
Via (transit country/-ies)*		Transit date*	DD MM YYYY

Means of transport	☐ **AIR** (specify) ☐ commercial flight ☐ private jet ☐ other	☐ **SEA / FLUVIAL** (specify) ☐ commercial vessel ☐ yacht ☐ cruise ☐ other	☐ **RAIL**	☐ **ROAD** (specify) ☐ truck ☐ bus ☐ car ☐ other	☐ **OTHER** (specify) _____

Itinerary of transport	
Name/place of the first airport/port/train station of departure	
Name/place of the final airport/port/train station of arrival	
Name/place of the airport/port/train station of transit	
Land border crossing point (only by road)	
Reference number (e.g. flight number, ship identification, train number, country code and license plate)	
Transport company*	

4. Details of cash

Currency (banknotes and coins)	**Value**	**Currency**	**Value**	**Currency**
	1)		3)	
	2)		4)	

Bearer negotiable instruments	**Type of bearer negotiable instrument**	**Value**	**Currency**

Commodities used as highly-liquid stores of value (i.e. gold)	**Type**	**Quantity**	**Total weight (in grams)**	**Value**	**Currency**

*If applicable or available. If not applicable or available, indicate 'N/A'.

5. Economic provenance and intended use of the cash (more than one option is possible in each Subsection 5.A and 5.B)	
5.A. Economic provenance (This Subsection is filled in when there is only one owner. If there is more than one owner, the information must be filled in using additional sheets. In this case, tick 'other' and specify 'additional sheets')	**5.B. Intended use** (This Subsection is filled in when there is only one intended recipient. If there is more than one intended recipient, the information must be filled in using additional sheets. In this case, tick 'other' and specify 'additional sheets')
☐ Labour profits (income, retirement, income from entrepreneurship etc.) ☐ Capital profits (dividends, investment profits, interest, insurance etc.) ☐ Sale of real estate property ☐ Sale of moveable property ☐ Loan granted by a natural person ☐ Loan granted by a legal entity (credit institution, bank or company) ☐ Lottery / gambling ☐ Gift / donation ☐ Inheritance ☐ Other (specify)_____	☐ Labour expenses (salary payments, investment business etc.) ☐ Capital investment (deposits to bank account, insurance payments etc.) ☐ Funds for purchasing real estate ☐ Funds for purchasing moveable property ☐ Repayment of loan granted by a natural person ☐ Repayment of loan granted by a legal entity (credit institution, bank or company) ☐ Lottery / gambling ☐ Charity ☐ Cash to shipmaster/ board cash ☐ Vacation / recreation ☐ Transfer of cash by professional cash couriers (currency exchange companies) ☐ Transfer of cash by professional cash couriers (other) ☐ Other (specify)_____

6. Owner of the cash: Are you the sole owner of the cash?	
☐ **Yes, I am the sole owner**	→ Go to Section 7
☐ **No, the sole owner is another natural person**	→ Fill in Subsection 6.A
☐ **No, the sole owner is a legal person**	→ Fill in Subsection 6.B
☐ **No, there is more than one owner**	→ Fill in the total number of owners below and use additional sheets to fill in their details. Go to Section 7.
Total number of owners:	

6.A. Sole owner is a natural person			
First name(s)			
Last name(s)			
Gender	☐ male	☐ female	☐ other
Date of birth	DD MM YYYY		
Place of birth	town	country	
ID document	☐passport	☐ID card	☐other(specify)_____
ID document number			
Country of issue			
Date of issue	DD MM YYYY		
Nationality			
Personal identification number*			
Address Street* and number*	street	number	
Town			
Postal / ZIP code*			
Country			
Telephone number*			
Email address*			

7. Intended recipient of the cash: Are you the sole intended recipient of the cash?	
☐ **Yes, I am the sole intended recipient for all cash**	→ Go to Section 8
☐ **No, the sole intended recipient is the sole owner**	→ Go to Section 8
☐ **No, the sole intended recipient is another natural person**	→ Fill in Subsection 7.A
☐ **No, the sole intended recipient is a legal person**	→ Fill in Subsection 7.B
☐ **No, there is more than one intended recipient**	→ Fill in the total number of intendent recipients below and use additional sheets to fill in their details. Go to Section 8.
Total number of intended recipients:	

7.A. Sole intended recipient is a natural person			
First name(s)			
Last name(s)			
Gender	☐ male	☐ female	☐ other
Date of birth	DD MM YYYY		
Place of birth	town	country	
ID document	☐passport	☐ID card	☐other(specify)_____
ID document number			
Country of issue			
Date of issue	DD MM YYYY		
Nationality			
Personal identification number*			
Address Street* and number*	street	number	
Town			
Postal / ZIP code*			
Country			
Telephone number*			
Email address*			

*If applicable or available. If not applicable or available, indicate 'N/A'.

6.B. Sole owner is a legal person			
Name			
Registration number			
Name of register			
Registration country			
VAT identification number*			
Economic Operators Registration and Identification (EORI) number *			
Address Street* and number*	street		number
Town			
Postal / ZIP code*			
Country			
Telephone number *			
Email address*			

7.B. Sole intended recipient is a legal person			
Name			
Registration number			
Name of register			
Registration country			
VAT identification number*			
Economic Operators Registration and Identification (EORI) number *			
Address Street* and number *	street		number
Town			
Postal / ZIP code*			
Country			
Telephone number *			
Email address*			

8. Signature				For official use	
I declare that all the details provided are correct. I understand that if the information provided is incorrect or incomplete, the obligation to declare shall not be deemed fulfilled and I am liable to penalties according to the applicable national legislation.				**Signature and stamp of the competent authority**	
Signature					
Name of the signee:					
Date	DD MM YYYY			**Customs declaration:**	☐ Yes ☐ No
Place	Town	Country		**Customs declaration number:**	
Total number of additional sheets used		Endorsed copy requested	☐ Yes	**Customs office that performed the control:**	

*If applicable or available. If not applicable or available, indicate 'N/A'.

ANNEX 24

INDIRECT TAXATION IN GIBRALTAR
IN APPLICATION OF ARTICLE 247(3) AND ARTICLE 248 OF THE AGREEMENT

SECTION 1

GENERAL PROVISIONS

ARTICLE 1

Scope and chargeability of the transaction tax and of the excise duty

1. The transaction tax, and excise duty, where applicable, shall be charged and collected by the competent authorities of the United Kingdom, in respect of Gibraltar:

(a) where the goods which were in free circulation in the Union are moved to Gibraltar, upon presentation of the goods to the competent authorities of the United Kingdom, in respect of Gibraltar, transported under the special transit system for Gibraltar, in accordance with the procedure provided for in Annex 19;

(b) where the goods are imported from countries and territories outside the customs union into Gibraltar, upon presentation of the goods to the competent authorities of the United Kingdom, in respect of Gibraltar, transported under the special transit system for Gibraltar in accordance with the procedure provided for in Annex 21;

(c) where, within the special fiscal or customs procedures established in Annexes 19 and 21, Union goods are put on the market in Gibraltar or a customs debt has arisen for non-Union goods;

(d) when goods produced in Gibraltar leave the production site;

(e) when goods are found to have irregularly entered Gibraltar; or

(f) when goods are brought into Gibraltar by travellers in excess of the quantitative thresholds provided for in Annex 23 but are still not considered as of commercial nature upon declaration or completion of checks.

2. For the purposes of point (d) of paragraph 1, goods are considered to have left the production site:

(a) when the goods are physically dispatched or transported out of the production facility by or on behalf of the producer, irrespective of the destination or purpose of such movement;

(b) the moment when the right to dispose of goods as owner is transferred to another party, whether by sale, exchange or any other legal means, even if the goods remain at the production facility.

ARTICLE 2

Taxable amount and rate of the transaction tax

1. The taxable amount for goods imported into Gibraltar shall be determined with reference to the value for customs purposes. It shall include, insofar as these elements were not already included in the customs value:

(a) taxes, duties, levies and other charges, including excise duties, due by reason

of importation, excluding the transaction tax to be levied; and

(b) incidental expenses, such as commission, packing, transport and insurance costs.

2. The taxable amount for goods produced in Gibraltar shall be the open market value at the time the goods leave the production site.

"Open market value" shall mean the full amount that, in order to obtain the goods in question at that time, a customer at the same marketing stage would have to pay, under conditions of fair competition, to a supplier at arm's length in Gibraltar.

Where no comparable supply of goods can be ascertained, "open market value" shall mean an amount that is not less than the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time the goods leave the production site.

3. The rate of the transaction tax shall be set as follows:

(a) the standard rate shall be set at not less than the lowest standard VAT rate applied by a Member State, which at the time of signature of this Agreement is 17 %.

By derogation from the foregoing, the United Kingdom, in respect of Gibraltar, may gradually increase its standard rate over a period of three years to reach the lowest standard VAT rate applied by a Member State, which at the time of signature of this Agreement is 17 %, in accordance with the table below following the entry into force of this Agreement.

Year 1	Year 2	Year 3
15 %	16 %	17 % (or such rate as may be the lowest applied by any Member State at that time)

In the context of its ongoing assessment under point (a) of Article 248(5), the independent consultative body may, in order to avoid significant actual distortions in Gibraltar or the contiguous frontier zone, recommend, at any time during or after the three-year period referred to in the second subparagraph of this point, that a higher or lower standard rate should apply to a selection of goods or categories of goods. In such cases:

(i) the higher rate that may be proposed would be such rate as the independent consultative body may consider appropriate to eliminate the distortions linked to the differences in rates of the transaction tax charged on those goods or categories of goods by the United Kingdom, in respect of Gibraltar, compared to the rates of VAT charged by the Kingdom of Spain on the same goods or category of goods;

(ii) the lower rate that may be proposed by the independent consultative body would never be lower than two percentage points below the lowest standard rate of VAT applied by any Member State.

After the three-year period, if the recommendations to apply rates different (higher or lower) from the standard rate to a selection of goods or categories of goods are insufficient to avoid significant actual distortions in Gibraltar or the contiguous frontier zone linked to the differences in rates of the transaction tax charged by the United Kingdom, in respect of Gibraltar, compared to the rates of VAT charged by the Kingdom of Spain, the independent consultative body may recommend, in the context of its annual assessment under point (b) of Article 248(5), that the standard rate is adjusted upwards or downwards for all goods subject to that rate.

(b) the reduced rate applicable to goods determined in accordance with paragraph 5 shall be not less than 5 %.

Any adjustment of the reduced rate by the United Kingdom, in respect of

Gibraltar, following a recommendation of the independent consultative body referred to in Article 248(5) may concern either all goods or a specific good or a category of goods, and may entail changing a good or category of goods from a reduced rate to a standard rate or a super reduced rate.

4. The United Kingdom, in respect of Gibraltar, may apply a super reduced rate of less than 5 % to the goods listed in Article 2 of Appendix 1.

Any adjustment of the super reduced rate by the United Kingdom, in respect of Gibraltar, following a recommendation of the independent consultative body referred to in Article 248(5) may concern either all goods or a specific good or a category of goods, and may entail changing a good or category of goods from a super reduced rate to a reduced or standard rate.

5. The list of goods to which a reduced or super reduced tax rate applies as well as the actual rate to be applied is included in Appendix 1 to this Annex. The list of goods to which a reduced or super reduced rate applies shall only include goods to which Member States may, in line with Union legislation concerning VAT, apply a reduced or super reduced rate.

6. If the United Kingdom, in respect of Gibraltar, modifies the list of goods referred to in paragraph 5, it shall only do so in line with Union legislation concerning VAT and shall notify the Union prior to the modifications taking effect.

ARTICLE 3

Person liable to pay the transaction tax and the Gibraltar excise duty

1. The person who declares the goods or on whose behalf they are declared for entry into Gibraltar and, in the case of irregular entry, any other person involved in the irregular entry of the goods, shall be liable to pay the transaction tax and the

Gibraltar excise duty, where applicable.

2. The person producing the goods in Gibraltar shall be liable to pay the transaction tax and, where applicable, the Gibraltar excise duty. In the case of an irregular production, any person involved in the production shall be liable to pay Gibraltar excise duty.

3. Where several persons are liable for payment of the Gibraltar excise duty they shall be jointly and severally liable for such debt.

ARTICLE 4

Exemptions

1. Goods shall be exempt from the transaction tax where, had such goods been imported, supplied or acquired in the Union, they would have benefited from a mandatory exemption from VAT. Goods shall be exempt from excise duty in cases where, had such goods been released for consumption in the Union, they would have benefited from a mandatory exemption from harmonised excise duty.

Where the United Kingdom, in respect of Gibraltar, seeks to avail itself of a discretionary exemption from VAT or harmonised excise duty as regards any goods, it shall first notify the Specialised Committee on Economy and Trade, which shall assess whether the exemption may be implemented. The Specialised Committee on Economy and Trade shall approve or reject the implementation of such exemptions on the basis of objective evidence and reasons.

2. In addition, liquefied natural gas imported and used for the production of electricity as well as electricity produced in Gibraltar shall be exempted from transaction tax and excise duty.

ARTICLE 5

Refund of the transaction tax and excise duty
where goods are exported from Gibraltar

The United Kingdom, in respect of Gibraltar, shall refund the transaction tax and excise duty, where applicable, charged on a good upon its export to the Union provided the exporter can prove that VAT or, where applicable, VAT and excise duty have been paid in the Union.

The United Kingdom, in respect of Gibraltar, shall also refund the transaction tax and excise duty, where applicable, where goods are exported to a country outside the customs union via a designated customs post. The designated customs post shall notify the competent authorities of the United Kingdom, in respect of Gibraltar, thereof.

Goods consumed in Gibraltar shall not be eligible for a refund of the transaction tax and excise duties, where applicable.

SECTION 2

EXCISE DUTY

ARTICLE 6

Scope and chargeability of excise duties

1. Excise duties in Gibraltar shall be applied consistently with applicable Union excise legislation at any given time.

Any new Union excise duties shall also apply in Gibraltar unless the independent

consultative body recommends, in accordance with Article 248(5) of this Agreement, a temporary suspension of up to one year.

2. Goods subject to excise duties in the Union, their taxable basis and duty minima, are laid down in Appendix 2. The levels of excise duties shall apply as follows:

(a) Union minimum excise rates shall apply at the entry into force of this Agreement;

(b) target excise rates not diverging by more than six percentage points from or being equivalent to 94 % of the excise rates applied in the Kingdom of Spain shall apply within three years of the entry into force of this Agreement.

3. Point (a) of paragraph 2 shall not apply to the fuel goods referred to in table A of Section 2(3) of Appendix 2 to this Annex.

4. By derogation from paragraph 2, the Specialised Committee on Economy and Trade, upon the recommendation of the independent consultative body referred to in Article 248(5), in cases where the supply of fuel for vehicles in petrol stations in Gibraltar is at risk, may allow the United Kingdom, in respect of Gibraltar, to apply excise duties below the Union minimum excise duties.

5. By derogation from paragraphs 1 and 2, manufactured tobacco products shall be subject to the provisions laid down in Section 3 of Appendix 2 to this Annex.

6. Without prejudice to paragraphs 3, 4 and 5, as from three years after the entry into force of this Agreement, and in the context of its ongoing assessment under point (a) of Article 248(5), the independent consultative body may, in order to avoid significant actual distortions in Gibraltar or the contiguous frontier zone, recommend that higher or lower excise rates than those referred to in point (b) of paragraph 2 should apply.

In those cases:

(a) the higher rate that may be proposed would be such rate as the independent consultative body may consider appropriate to eliminate the distortions linked to the differences in levels of the excise duty charged on those goods or category of goods by the United Kingdom, in respect of Gibraltar, compared to the rates of excise duty charged by the Kingdom of Spain on the same goods or category of goods; and

(b) the lower rate that may be proposed by the independent consultative body would never be lower than the Union minimum excise rates.

ARTICLE 7

Registration of excise duty operators

Any person responsible for the entry, production, holding, storage, movement, or exit of excise goods for commercial purposes in Gibraltar shall:

(a) be registered by the competent authorities of the United Kingdom, in respect of Gibraltar;

(b) keep accounts of stock and movements of excise goods and periodically submit them to the competent authorities of the United Kingdom, in respect of Gibraltar; and

(c) consent to all monitoring and stock checks.

ARTICLE 8

Refund of excise duty in the event of total destruction or irretrievable loss

The United Kingdom, in respect of Gibraltar, may refund excise duties of excise goods when there is a total destruction or irretrievable loss, total or partial, of these goods as a result of unforeseeable circumstances or force majeure, or as a consequence of an authorisation to destroy the goods by the competent authorities.

SECTION 3

OTHER PROVISIONS

ARTICLE 9

Exceptional circumstances

1. In response to exceptional circumstances and subject to certain conditions laid down in this Article, the United Kingdom, in respect of Gibraltar, may take one of the following measures:

(a) apply a temporary reduced rate of the transaction tax to specific goods deemed essential for addressing the exceptional circumstances; or

(b) temporarily exempt from the transaction tax and excise duties, where applicable, specific goods deemed essential for addressing the exceptional circumstances.

2. The specific goods eligible for a temporary reduced rate or temporary exemption, along with the duration of this measure, shall be subject to approval within a maximum of one week of their notification by the Specialised Committee

on Economy and Trade taking into account the nature of the exceptional circumstances and the need for rapid response.

3. It shall be ensured that such temporary measures have no negative impact on the Union's internal market in the form of fiscal fraud risks nor any distortion of competition.

ARTICLE 10

Statistical information

The United Kingdom, in respect of Gibraltar, shall compile and provide to the Specialised Committee on Economy and Trade statistics on the transaction tax and excise duty paid in Gibraltar on a quarterly basis.

Appendix 1

INDIRECT TAXATION IN GIBRALTAR: LIST OF GOODS ELIGIBLE FOR REDUCED TRANSACTION TAX RATES

ARTICLE 1

Gibraltar shall apply a reduced rate of transaction tax of 5 % to goods falling within the following product categories:

– goods of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings; and, until 1 January 2032, supply of chemical pesticides and chemical fertilisers;

– live equines;

– live plants and other floricultural products, including bulbs, cotton, roots and the like, cut flowers and ornamental foliage;

– children's clothing and footwear; children's car seats;

– bicycles, including electric bicycles;

– works of art, collectors' items and antiques listed in Annex IX, Parts A, B and C of Council Directive 2006/112/EC[1]; and

– tools and other equipment of a kind normally intended for use in rescue or first aid services when supplied to public bodies or non-profit-making organisations active in civil or community protection.

ARTICLE 2

Gibraltar shall apply a super-reduced rate of transaction tax of 0 % to goods falling within the following product categories:

– foodstuffs, including beverages but excluding alcoholic beverages, for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs; products normally used to supplement foodstuffs or as a substitute for foodstuffs;

– supply of water;

– pharmaceutical products used for medical and veterinary purposes, including products used for contraception and female sanitary protection, and absorbent hygiene products;

– medical equipment, appliances, devices, items, aids and protective gear, including health protection masks, normally intended for use in health care or for the use of the disabled, goods essential to compensate and overcome disability;

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

– supply, including on loan by libraries, of books, newspapers and periodicals either on physical means of support or supplied electronically, or both (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), other than publications wholly or predominantly devoted to advertising and other than publications wholly or predominantly consisting of video content or audible music; production of publications of non-profit-making organisations; and

– supply of solar panels to be installed on and adjacent to private dwellings, housing and public and other buildings used for activities in the public interest.

Appendix 2

INDIRECT TAXATION IN GIBRALTAR: GOODS SUBJECT TO EXCISE DUTY AND MINIMUM UNION DUTY RATES UPON ENTRY INTO FORCE OF THIS AGREEMENT

SECTION 1

ETHYL ALCOHOL AND ALCOHOLIC BEVERAGES

Ethyl alcohol and alcoholic beverages shall be subject to excise duty. Ethyl alcohol and alcoholic beverages are:

(a) beer, which covers any product falling within CN code 2203 or any product containing a mixture of beer with non-alcoholic drinks falling within CN code 2206, in either case with an actual alcoholic strength by volume exceeding 0,5 % vol.;

(b) still wine, which covers all products falling within CN codes 2204 and 2205, except sparkling wine as defined in point (c), having an actual alcoholic strength by volume exceeding 1,2 % vol. but not exceeding 15 % vol., provided that the alcohol contained in the finished product is entirely of fermented origin, or having an actual alcoholic strength by volume exceeding 15 % vol. and not exceeding 18 % vol. provided they have been produced without any enrichment and that the alcohol contained in the finished product is entirely of fermented origin;

(c) sparkling wine, which covers all products falling within CN codes 2204 10, 2204 21 06, 2204 21 07, 2204 21 08, 2204 21 09, 2204 29 10 and 2205 which are contained in bottles with "mushroom stoppers" held in place by ties or fastenings, or they have an excess pressure due to carbon dioxide in solution of three bar or more, and have an actual alcoholic strength by volume exceeding 1,2 % vol. but not exceeding 15 % vol., provided that the alcohol contained in the finished product is entirely of fermented origin;

(d) other still fermented beverages, without prejudice to point (f), which covers all products falling within CN codes 2204 and 2205, but not mentioned in points (b) and (c), and products falling within CN code 2206, except other sparkling fermented beverages as defined in point (e) and any product covered by point (a):

(i) having an actual alcoholic strength by volume exceeding 1,2 % vol. but not exceeding 10 % vol.;

(ii) having an actual alcoholic strength by volume exceeding 10 % vol. but not exceeding 15 % vol., provided that the alcohol contained in the product is entirely of fermented origin;

(e) other sparkling fermented beverages, without prejudice to point (f), which covers all products falling within CN codes 2206 00 31 and 2206 00 39 as well as products falling within CN codes 2204 10, 2204 21 06, 2204 21 07, 2204 21 08, 2204 21 09, 2204 29 10 and 2205 not mentioned in points (b) and (c), which:

(i) are contained in bottles with "mushroom stoppers" held in place by ties or fastenings, or they have an excess pressure due to carbon dioxide in solution of three bar or more;

(ii) have an actual alcoholic strength by volume exceeding 1,2 % vol., but not exceeding 13 % vol.;

(iii) have an actual alcoholic strength by volume exceeding 13 % vol., but not exceeding 15 % vol., provided that the alcohol contained in the product is entirely of fermented origin;

(f) intermediate products, which covers all products of an actual alcoholic strength by volume exceeding 1,2 % vol., but not exceeding 22 % vol. and falling within CN codes 2204, 2205 and 2206 but not covered in points (a) to (e); and

(g) ethyl alcohol, which covers:

(i) all products with an actual alcoholic strength by volume exceeding 1,2 % vol. which fall within CN code 2207 and 2208, even when those products form part of a product which falls within another chapter of the CN;

(ii) products of CN codes 2204, 2205 and 2206 which have an actual alcoholic strength by volume exceeding 22 % vol.; and

(iii) potable spirits containing products, whether in solution or not.

The minimum excise duty rates for ethyl alcohol and alcoholic beverages are:

(a) for beer EUR 1,87 per hectolitre/degree of alcohol of finished product; in assessing the charge to duty on beer, the United Kingdom, in respect of Gibraltar, may ignore fractions of a degree of actual alcoholic strength by volume;

(b) for wine EUR 0 per hectolitre of finished product;

(c) for fermented beverages other than wine and beer EUR 0 per hectolitre of finished product;

(d) for intermediate products EUR 45 per hectolitre of finished product; and

(e) for ethyl alcohol EUR 550 per hectolitre of pure alcohol at 20 °C, calculated by reference to the number of hectolitres of pure alcohol.

SECTION 2

ELECTRICITY AND ENERGY PRODUCTS

1. Energy products and electricity shall be subject to excise duty. Energy products and electricity are those:

   (a) falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

   (b) falling within CN codes 2701, 2702 and 2704 to 2715;

   (c) falling within CN codes 2901 and 2902;

(d) falling within CN code 2905 11 00, which are not of synthetic origin, if these are intended for use as heating fuel or motor fuel;

(e) falling within CN code 3403;

(f) falling within CN code 3811;

(g) falling within CN code 3817;

(h) falling within CN codes 3824 99 86, 3824 99 92 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3824 99 93, 3824 99 96 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3826 00 10 and 3826 00 90 if these are intended for use as heating fuel or motor fuel; and

(i) falling within CN code 2716.

2. When intended for use, offered for sale or used as motor fuel or heating fuel, energy products other than those for which a level of taxation is specified in this Annex shall be taxed according to use, at the rate for the equivalent heating fuel or motor fuel.

In addition to the taxable products listed in paragraph 1, any product intended for use, offered for sale or used as motor fuel, or as an additive or extender in motor fuels, shall be taxed at the rate for the equivalent motor fuel.

In addition to the taxable products listed in paragraph 1, any other hydrocarbon, except for peat, intended for use, offered for sale or used for heating purposes shall be taxed at the rate for the equivalent energy product.

3. Categories of motor fuels and minimum levels of taxation are as follows:

Table A – Categories of motor fuels

Excise goods	Quantity
Leaded petrol CN codes 2710 12 31, 2710 12 51 and 2710 12 59	in euro per 1 000 l
Unleaded petrol CN codes 2710 12 31, 2710 12 41, 2710 12 45 and 2710 12 49	in euro per 1 000 l
Gas oil CN codes 2710 19 43 to 2710 19 48 and 2710 20 11 to 2710 20 19	in euro per 1 000 l
Kerosene CN codes 2710 19 21 and 2710 19 25	in euro per 1 000 l
LPG CN codes 2711 12 11 to 2711 19 00	in euro per 1 000 kg
Natural gas CN codes 2711 11 00 and 2711 21 00	in euro per gigajoule gross calorific value

Table B – Minimum levels of taxation applicable to motor fuels used for the following industrial and commercial purposes:

(a) agricultural, horticultural or piscicultural works, and in forestry;

(b) stationary motors;

(c) plant and machinery used in construction, civil engineering and public works; and

(d) vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

Goods	Quantity	Minimal tax
Gas oil CN codes 2710 19 43 to 2710 19 48 and 2710 20 11 to 2710 20 19	in euro per 1 000 l	21
Kerosene CN codes 2710 19 21 and 2710 19 25	in euro per 1 000 l	21
LPG CN codes 2711 12 11 to 2711 19 00	in euro per 1 000 kg	41
Natural gas CN codes 2711 11 00 and 2711 21 00	in euro per gigajoule gross calorific value	0,3

Table C – Minimum levels of taxation applicable to heating fuels and electricity

Goods	Quantity	Minimal tax	
		Business use	Non-business use
Gas oil CN codes 2710 19 43 to 2710 19 48 and 2710 20 11 to 2710 20 19	in euro per 1 000 l	21	21
Heavy fuel oil CN codes 2710 19 62 to 2710 19 68 and 2710 20 31 to 2710 20 39	in euro per 1 000 kg	15	15
Kerosene CN codes 2710 19 21 and 2710 19 25	in euro per 1 000 l	0	0
LPG CN codes 2711 12 11 to 2711 19 00	in euro per 1 000 kg	0	0
Natural gas CN codes 2711 11 00 and 2711 21 00	in euro per gigajoule gross calorific value	0,15	0,3
Coal and coke CN codes 2701, 2702 and 2704	in euro per gigajoule gross calorific value	0,15	0,3
Electricity CN code 2716	in euro per MWh	0,5	1,0

For energy products specified in the tables, with levels of taxation based on volumes, the volume is measured at a temperature of 15 °C.

4. "Business use" means the use by a business entity, identified in accordance with paragraph 5, which independently carries out, in any place, the supply of goods and services, whatever the purpose or results of such economic activities.

   The economic activities comprise all activities of producers, traders and persons supplying services including mining and agricultural activities and activities of the professions.

   States, regional and local government authorities and other bodies governed by public law shall not be considered as business entities in respect of the activities or transactions in which they engage as public authorities. However, when they engage in such activities or transactions, they shall be considered as a business in respect of these activities or transactions where treatment as a non-business would lead to significant distortions of competition.

5. The business entity cannot be considered as smaller than a part of an enterprise or a legal body that from an organisational point of view constitutes an independent business, that is to say an entity capable of functioning by its own means.

6. Where mixed use takes place, taxation shall apply in proportion to each type of use, although where either the business or non-business use is insignificant, it may be treated as nil.

7. The United Kingdom, in respect of Gibraltar, may limit the scope of the reduced level of taxation for business use.

SECTION 3

MANUFACTURED TOBACCO

1. Manufactured tobacco shall be subject to excise duties. Manufactured tobacco are:

   (a) cigarettes;

   (b) cigars and cigarillos;

   (c) smoking tobacco:

      (i) fine-cut tobacco for the rolling of cigarettes; and

      (ii) other smoking tobacco.

2. Products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria of cigarettes, cigars, cigarillos and smoking tobacco shall be treated as cigarettes, cigars, cigarillos and smoking tobacco, respectively.

3. Cigarettes shall be subject to an ad valorem excise duty calculated on the maximum retail selling price, including customs duties, and also to a specific excise duty (of between 7,5 % and 76,5 % of the total tax burden) calculated per unit of the product.

The overall excise duty (specific duty and ad valorem duty excluding VAT) shall not be less than EUR 115 per 1 000 cigarettes. The price difference resulting from the applicable overall excise duty shall not exceed EUR 0,80 or 15 % per packet of cigarettes, whichever leads to the lower price differential.

The rate of the ad valorem excise duty and the amount of the specific excise duty must be the same for all cigarettes.

4. The minimum excise duty for manufactured tobacco other than cigarettes shall be:

   (a) either an ad valorem duty calculated on the basis of the maximum retail selling price of each product;

   (b) a specific duty expressed as an amount per kilogram, or in the case of cigars and cigarillos, alternatively for a given number of items; or

   (c) a mixture of both, combining an ad valorem element and a specific element.

5. The overall excise duty (specific duty and ad valorem duty excluding transaction tax), expressed as a percentage, as an amount per kilogram or for a given number of items, shall be at least equivalent to the rates or minimum amounts laid down for:

   (a) cigars or cigarillos: 5 % of the retail selling price inclusive of all taxes or EUR 12 per 1 000 items or per kilogram;

(b) fine-cut smoking tobacco intended for the rolling of cigarettes: 50 % of the weighted average retail selling price of fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, or EUR 60 per kilogram;

(c) other smoking tobacco: 20 % of the retail selling price inclusive of all taxes, or EUR 22 per kilogram.

6. For the purposes of paragraphs 3 and 5, the weighted average retail selling price of cigarettes and fine-cut smoking tobacco intended for the rolling of cigarettes shall be calculated by reference to the total value of all cigarettes and fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption, based on the retail selling price including all taxes, divided by the total quantity of cigarettes and fine-cut smoking tobacco intended for the rolling of cigarettes released for consumption. The weighted average retail selling price shall be determined by 1 March at the latest of each year on the basis of data relating to all such releases for consumption made in the preceding calendar year.

7. The rates referred to in paragraphs 4 and 5 shall be effective for all products belonging to the group of manufactured tobacco concerned, without distinction within each group as to quality, presentation, origin of the products, the materials used, the characteristics of the firms involved or any other criterion.

8. The competent authorities of the United Kingdom, in respect of Gibraltar, shall provide statistical data on the structure and rates of excise duty applied on manufactured tobacco. Article 6 of this Agreement does not apply.

ANNEX 25

AVIATION

List of Union law referred to in Article 273 of the Agreement:

– Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ EC L 14, 22.1.1993, p. 1, ELI: http://data.europa.eu/eli/reg/1993/95/oj);

  Amended by: Regulation (EC) No 793/2004 of the European Parliament and of the Council of 21 April 2004 (OJ EU L 138, 30.4.2004, p. 50, ELI: http://data.europa.eu/eli/reg/2004/793/oj);

– Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports (OJ EC L 272, 25.10.1996, p. 36, ELI: http://data.europa.eu/eli/dir/1996/67/oj);

  Amended by: Decision (EU) 2024/1254 of the European Parliament and of the Council (OJ EU L, 2024/1254, 30.4.2024, ELI: http://data.europa.eu/eli/dec/2024/1254/oj);

– Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges (OJ EU L 70, 14.3.2009, p. 11, ELI: http://data.europa.eu/eli/dir/2009/12/oj);

  Amended by: Decision (EU) 2024/1254 of the European Parliament and of the Council of 24 April 2024 (OJ EU L, 2024/1254, 30.4.2024, ELI: http://data.europa.eu/eli/dec/2024/1254/oj); and

– Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the right of disabled persons and persons

with reduced mobility when travelling by air (OJ EU L 204, 26.7.2006, p. 1, ELI: http://data.europa.eu/eli/reg/2006/1107/oj).

ANNEX 26

LIST OF ESTABLISHMENTS
REFERRED TO IN ARTICLE 276 OF THE AGREEMENT

LIST OF HEALTH SERVICE PROVIDERS:

1. "Cidat", La Línea de la Concepción;

2. "Hospital Quirónsalud Campo de Gibraltar", Palmones;

3. "Scanner Sur", Algeciras;

4. "Hospital Universitario Punta de Europa", Algeciras;

5. "Vithas Xanit International Hospital", Benalmádena;

6. "Vithas Málaga Hospital", Málaga;

7. "HLA Hospital Jerez Puerta del Sur", Jerez.

ANNEX 27

TRANSPORT OF GOODS BY ROAD

PART A

REQUIREMENTS FOR ROAD HAULAGE OPERATORS: ADMISSION TO, AND THE PURSUIT OF, THE OCCUPATION OF ROAD HAULAGE OPERATOR

ARTICLE 1

Scope

This Part governs admission to, and the pursuit of, the occupation of road haulage operator and shall apply to all road haulage operators of a Party engaged in the transport of goods within the scope of Articles 276 and 277 of this Agreement.

ARTICLE 2

Definitions

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

(a) "authorisation to pursue the occupation of road haulage operator" means an administrative decision which authorises a natural or legal person who fulfils the conditions laid down in this Part to pursue the occupation of road haulage operator;

(b) "competent authority" means a national, regional or local authority in a Party which, for the purpose of authorising the pursuit of the occupation of road haulage operator, verifies whether a natural or legal person fulfils the conditions laid down in this Part, and which is empowered to grant, suspend or withdraw an authorisation to pursue the occupation of road haulage operator; and

(c) "normal residence" means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal ties which show close links between that person and the place where that person is living.

ARTICLE 3

Requirements for engagement in the occupation of road haulage operator

Natural or legal persons engaged in the occupation of road haulage operator shall:

(a) have an effective and stable establishment in a Party as laid down in Article 5 of this Part;

(b) be of good repute as laid down in Article 6 of this Part;

(c) have appropriate financial standing as laid down in Article 7 of this Part; and

(d) have the requisite professional competence as laid down in Article 8 of this Part.

ARTICLE 4

Transport manager

1. A road haulage operator shall designate at least one natural person to be the transport manager, who effectively and continuously manages its transport activities and fulfils the requirements set out in points (b) and (d) of Article 3 and who:

(a) has a genuine link to the road haulage operator, such as being an employee, director, owner or shareholder or administering it, or is that person; and

b) is resident in the Party in the territory of which the road haulage operator is established.

2. If a natural or legal person does not fulfil the requirement of professional competence, the competent authority may authorise the natural or legal person to engage in the occupation of road haulage operator without designating a transport manager in accordance with paragraph 1, provided that:

(a) the natural or legal person designates a natural person residing in the Party of establishment of the road haulage operator who fulfils the requirements laid down in points (b) and (d) of Article 3 and who is entitled under contract to carry out duties as transport manager on behalf of the undertaking;

(b) the contract linking the natural or legal person with the person referred to in point (a) specifies the tasks to be performed on an effective and continuous basis by that person and indicates that person's responsibilities as transport manager. The tasks to be specified shall comprise, in particular, those relating to vehicle maintenance management, verification of transport contracts and documents, basic accounting, the assignment of loads or services to drivers and vehicles, and the verification of safety procedures;

(c) in his or her capacity as transport manager, the person referred to in point (a) may manage the transport activities of up to four different road haulage operators carried out with a combined maximum total fleet of 50 vehicles; and

(d) the person referred to in point (a) performs the specified tasks solely in the interests of the natural or legal person and that person's responsibilities are exercised independently of any natural or legal persons for which it carries out transport operations.

3. A Party may decide that a transport manager designated in accordance with paragraph 1 may not in addition be designated in accordance with paragraph 2, or may only be so designated in respect of a limited number of natural or legal persons or a fleet of vehicles that is smaller than that referred to in point (c) of paragraph 2.

4. The natural or legal person shall notify the competent authority of the transport manager or managers designated.

ARTICLE 5

Conditions relating to the requirement of establishment

In order to fulfil the requirement of effective and stable establishment in the Party of establishment, a natural or legal person shall:

(a) have premises at which it is able to access the originals of its core business documents, whether in electronic or any other form in particular its transport contracts, documents relating to the vehicles at the disposal of the natural or legal person, accounting documents, personnel management documents, labour contracts, social security documents, documents containing data

relating to journeys, driving time and rest periods, and any other document to which the competent authority must have access in order to verify compliance with the conditions laid down in this Part;

(b) be registered in the register of commercial companies of that Party or in a similar register whenever required under national law;

(c) be subject to tax on revenues and, whenever required under national law, have assigned a VAT identification number;

(d) once an authorisation has been granted, have at its disposal one or more vehicles which are registered or put into circulation and authorised to be used in conformity with the legislation of that Party, regardless of whether those vehicles are wholly owned or, for example, are held under a hire-purchase agreement or under a hire or leasing contract;

(e) effectively and continuously conduct its administrative and commercial activities with the appropriate equipment and facilities at premises as referred to in point (a) situated in that Party and manage effectively and continuously its transport operations using the vehicles referred to in point (f) with the appropriate technical equipment situated in that Party; and

(f) on an ongoing basis, have at its regular disposal a number of vehicles complying with the conditions laid down in point (d) and drivers normally based at an operational centre in that Party, proportionate to the volume of transport operations carried out by the undertaking.

ARTICLE 6

Conditions relating to the requirement of good repute

1. Subject to paragraph 2, the Parties shall determine the conditions to be met by natural or legal persons and transport managers in order to fulfil the requirement of good repute.

In determining whether a natural or legal person has fulfilled that requirement, the Parties shall consider the conduct of the natural or legal person, its transport managers, executive directors and any other relevant person as may be determined by the Party. Any reference in this Article to convictions, penalties or infringements shall include convictions, penalties or infringements of the natural or legal person itself, its transport managers, executive directors and any other relevant person as may be determined by the Party.

The conditions referred to in this paragraph shall include at least the following:

(a) that there be no compelling grounds for doubting the good repute of the transport manager or the road haulage operator, such as convictions or penalties for any serious infringement of national rules in force in the fields of:

(i) commercial law;

(ii) insolvency law;

(iii) pay and employment conditions in the profession;

(iv) road traffic;

(v) professional liability;

(vi) trafficking in human beings or drugs; and

(vii) tax law; and

(b) that the transport manager or the road haulage operator have not in one or both Parties been convicted of a serious criminal offence or incurred a penalty for a serious infringement of the rules of Articles 278 to 282 of this Agreement or of national rules relating in particular to:

(i) the driving time and rest periods of drivers, working time and the installation and use of recording equipment;

(ii) the maximum weights and dimensions of commercial vehicles used in international traffic;

(iii) the initial qualification and continuous training of drivers;

(iv) the roadworthiness of commercial vehicles, including the compulsory technical inspection of motor vehicles;

(v) access to the market in international road haulage;

(vi) safety in the carriage of dangerous goods by road;

(vii) the installation and use of speed-limiting devices in certain categories of vehicle;

(viii) driving licences;

(ix) admission to the occupation;

(x) animal transport;

(xi) the posting of workers in road transport;

(xii) the law applicable to contractual obligations; and

(xiii) journeys whose points of loading and unloading are situated in the other Party.

2. For the purposes of point (b) of the third subparagraph of paragraph 1 of this Article, where the transport manager or the road haulage operator has been convicted of a serious criminal offence or has incurred a penalty for one of the most serious infringements as set out in Appendix 27-A-1-1 in one or both Parties, the competent authority in the Party of establishment shall carry out and complete in an appropriate and timely manner an administrative procedure, which shall include, if appropriate, an on-site inspection at the premises of the natural or legal person concerned.

During the administrative procedure, the competent authority shall assess whether, due to specific circumstances, the loss of good repute would constitute a disproportionate response in the individual case. In that assessment, the competent authority shall take into account the number of serious infringements of the rules as referred to in the third subparagraph of paragraph 1 of this Article, as well as the number of most serious infringements as set out in Appendix 27-A-1-1 for which the transport manager or the road haulage operator have been convicted or had

penalties imposed on them. Any such finding shall be duly reasoned and justified.

Where the competent authority finds that the loss of good repute would be disproportionate, it shall decide that the natural or legal person concerned continues to be of good repute. Where the competent authority does not find that the loss of good repute would be disproportionate, the conviction or penalty shall lead to the loss of good repute.

3. In addition to the list of most serious infringements set out in Appendix 27-A-1-1, serious infringements set out in Appendix 27-A-1-1bis may lead to the loss of good repute.

4. The requirement of good repute shall not be fulfilled until a rehabilitation measure or any other measure having an equivalent effect has been taken pursuant to the relevant provisions of national law of the Parties.

ARTICLE 7

Conditions relating to the requirement of financial standing

1. In order to fulfil the requirement of financial standing, a natural or legal person shall, on a permanent basis, be able to meet its financial obligations in the course of the annual accounting year. The natural or legal person shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal capital and reserves:

(a) totalling at least EUR 9 000 / GBP 8 000 when only one motor vehicle is used, EUR 5 000 / GBP 4 500 for each additional motor vehicle or combination of vehicles used that has a permissible laden mass exceeding 3,5 tonnes and EUR 900 / GBP 800 for each additional motor vehicle or combination of vehicles that has a permissible laden mass, exceeding 2,5 tonnes but not 3,5 tonnes;

(b) natural or legal persons engaged in the occupation of road haulage operator solely by means of motor vehicles or combinations of vehicles that have a permissible laden mass exceeding 2,5 tonnes but not 3,5 tonnes shall demonstrate, on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, they have at their disposal capital and reserves totalling at least EUR 1 800 / GBP 1 600 when only one vehicle is used and EUR 900 / GBP 800 for each additional vehicle used.

2. By way of derogation from paragraph 1, the competent authority may agree or require that an undertaking demonstrate its financial standing by means of a certificate determined by the competent authority, such as a bank guarantee or an insurance, including a professional liability insurance from one or more banks or other financial institutions including insurance companies or another binding document providing a joint and several guarantee for the undertaking in respect of the amounts specified in point (a) of paragraph 1.

3. By way of derogation from paragraph 1, in the absence of certified annual accounts for the year of an undertaking's registration, the competent authority shall agree that an undertaking is to demonstrate its financial standing by means of a certificate, such as a bank guarantee, a document issued by a financial institution establishing access to credit in the name of the undertaking, or another binding document as determined by the competent authority proving that the undertaking has at its disposal the amounts specified in point (a) of paragraph 1.

4. The annual accounts referred to in paragraph 1, and the guarantee referred to in paragraph 2, which are to be verified, are those of the economic entity established in the Party in which an authorisation has been applied for and not those of any other entity established in the other Party.

ARTICLE 8

Conditions relating to the requirement of professional competence

1. In order to satisfy the requirement of professional competence, the person or persons concerned shall possess knowledge corresponding to the level provided for in Part I of Appendix 27-A-1-2 in the subjects listed therein. That knowledge shall be demonstrated by means of a compulsory written examination which, if a Party so decides, may be supplemented by an oral examination. Those examinations shall be organised in accordance with Part II of Appendix 27-A-1-2. To this end, a Party may decide to impose training prior to the examination.

2. The persons concerned shall sit the examination in the Party in which they have their normal residence.

3. Only the authorities or bodies duly authorised for this purpose by a Party, in accordance with criteria defined by it, may organise and certify the written and oral examinations referred to in paragraph 1 of this Article. The Parties shall regularly verify that the conditions under which those authorities or bodies organise the examinations are in accordance with Appendix 27-A-1-2.

4. A Party may exempt the holders of certain higher education qualifications or technical education qualifications issued in that Party, specifically designated to this end and entailing knowledge of all the subjects listed in Part I of Appendix 27-A-1-2 from the examination in the subjects covered by those qualifications. The exemption shall only apply to those Sections of Part I of Appendix 27-A-1-2 for which the qualification covers all subjects listed under the heading of each Section.

A Party may exempt from specified parts of the examinations holders of certificates of professional competence valid for national transport operations in that Party.

ARTICLE 9

Exemption from examination

For the purpose of granting a licence to a road haulage operator which only operates motor vehicles or combinations of vehicles the permissible laden mass of which does not exceed 3,5 tonnes, a Party may decide to exempt from the examinations referred to in Article 8(1) persons who provide proof that they have continuously managed, for the period of 10 years before 20 August 2020, a natural or legal person of the same type.

ARTICLE 10

Procedure for the suspension and withdrawal of authorisations

1. Where a competent authority establishes that a natural or legal person runs the risk of no longer fulfilling the requirements laid down in Article 3, it shall notify the natural or legal person thereof. Where a competent authority establishes that one or more of those requirements is no longer satisfied, it may set one of the following time limits for the natural or legal person to rectify the situation:

(a) a time limit not exceeding six months, which may be extended by three months in the event of the death or physical incapacity of the transport manager, for the recruitment of a replacement transport manager where the transport manager no longer satisfies the requirement as to good repute or professional competence;

(b) a time limit not exceeding six months where the natural or legal person has to

rectify the situation by demonstrating that the natural or legal person has an effective and stable establishment; or

(c) a time limit not exceeding six months where the requirement of financial standing is not satisfied, in order to demonstrate that that requirement is again satisfied on a permanent basis.

2. The competent authority may require a natural or legal person whose authorisation has been suspended or withdrawn to ensure that its transport managers have passed the examinations referred to in Article 8(1) prior to any rehabilitation measure being taken.

3. If the competent authority establishes that the natural or legal person no longer satisfies one or more of the requirements laid down in Article 3, it shall suspend or withdraw the authorisation to engage in the occupation of road haulage operator within the time limits referred to in paragraph 1 of this Article.

ARTICLE 11

Declaration of unfitness of the transport manager

1. Where a transport manager loses good repute in accordance with Article 6, the competent authority shall declare that transport manager unfit to manage the transport activities of a road haulage operator.

The competent authority shall not rehabilitate the transport manager earlier than one year from the date of the loss of good repute and before the transport manager has demonstrated to have followed appropriate training for a period of at least three months or an exam on the subjects listed in Part I of Appendix 27-A-1-2.

2. Where a transport manager loses good repute in accordance with Article 6, an

application for rehabilitation may be introduced after no less than one year from the date of the loss of good repute.

ARTICLE 12

Examination and registration of applications

1. The competent authorities in each Party shall record in the national electronic registers referred to in Article 13(1) the data relating to undertakings which they authorise.

2. When assessing the good repute of an undertaking, the competent authorities shall verify, whether at the time of the application the designated transport manager or managers are declared, in one of the Parties, unfit to manage the transport activities of an undertaking pursuant to Article 11.

3. The competent authorities shall regularly monitor whether undertakings which they have authorised to engage in the occupation of road haulage operators continue to fulfil the requirements referred to in Article 3. To that end, the competent authorities shall carry out checks, including, where appropriate, on-site inspections at the premises of the undertaking concerned, targeting those undertakings which are classed as posing an increased risk.

ARTICLE 13

National electronic registers

1. The competent authorities shall keep a national electronic register of road transport undertakings which have been authorised to engage in the occupation of road haulage operator.

2. The data contained in the national registers of road transport undertakings and the conditions of access to this data are set out in Appendix 27-A-1-5.

ARTICLE 14

Administrative cooperation between the competent authorities

1. The competent authorities in each Party shall designate a national contact point responsible for the exchange of information with the competent authorities of the other Party with regard to the application of this Part.

2. The competent authorities in each Party shall cooperate closely and shall swiftly provide one another with mutual assistance and with any other relevant information in order to facilitate the implementation and enforcement of this Part.

3. The competent authorities in each Party shall carry out individual checks to verify whether an undertaking meets the conditions governing admission to the occupation of road haulage operator whenever a competent authority in the other Party so requests in duly justified cases. It shall inform the competent authority in the other Party of the results of such checks and of the measures taken if it is established that the undertaking no longer fulfils the requirements laid down in this Part.

4. The competent authorities in each Party shall exchange information on convictions and penalties for any serious infringements referred to in Article 6(2).

5. The detailed rules on the modalities of the exchange of information referred to in paragraphs 3 and 4 are set out in Appendix 27-A-1-5.

Appendix 27-A-1-1

MOST SERIOUS INFRINGEMENTS
FOR THE PURPOSES OF ARTICLE 6(2) OF PART A OF THIS ANNEX

1. Exceeding time limits as follows:

   (a) exceeding the maximum six-day or fortnightly driving time limits by margins of 25 % or more;

   (b) exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.

2. Not having a tachograph and/or speed limiter, or having in the vehicle and/or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card.

3. Driving without a valid roadworthiness certificate and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle.

4. Transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle.

5. Carrying goods without holding a valid driving licence or carrying by an undertaking not holding a valid operator's licence as referred to in Article 278

of this Agreement.

6. Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.

7. Carrying goods exceeding the maximum permissible laden mass by 20 % or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25 % or more for vehicles the permissible laden weight of which does not exceed 12 tonnes.

Appendix 27-A-1-1bis

LIST OF SERIOUS INFRINGEMENTS
FOR THE PURPOSES OF ARTICLE 6(2) OF PART A OF THIS ANNEX

The following tables contain categories and types of serious infringements of this Annex, divided into three categories of seriousness according to their potential to create a risk of fatalities or serious injuries and/or distorting competition in the road transport market: most serious infringement ("MSI"), very serious infringement ("VSI") and serious infringement ("SI").

(1) Groups of infringements of Section 2 of Part B of this Annex, unless stated otherwise

	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
Driving periods						
1.	Article 4(1) and Appendix 27-A-1-1	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	10h ≤ … < 11h			X
2.			11h ≤ …		X	
3.		Exceed daily driving time of 9h by 50 % or more	13h30 ≤ …	X		
4.		Exceed extended daily driving time of 10h if extension allowed	11h ≤ … < 12h			X
5.			12h ≤ …		X	
6.		Exceed daily driving time of 10h by 50 % or more	15h ≤ …	X		

	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
7.	Article 4(2) and Appendix 27-A-1-1	Exceed weekly driving time	60h ≤ … < 65h			X
8.			65h ≤ … < 70h		X	
9.		Exceed weekly driving time by 25 % or more	70h ≤ …	X		
10.	Article 4(3) and Appendix 27-A-1-1	Exceed maximum total driving time during 2 consecutive weeks	100h ≤ … < 105h			X
11.			105h ≤ … < 112h30		X	
12.		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	112h30 ≤ …	X		
Breaks						
13.	Article 5	Exceed uninterrupted driving time of 4,5 hours before taking the break	5h ≤ … < 6h			X
14.			6h ≤ …		X	
Rest Periods						
15.	Article 6(2)	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	8h30 ≤ … < 10h			X
16.			… < 8h30		X	
17.		Insufficient reduced daily rest period of less than 9h if reduction allowed	7h ≤ … < 8h			X
18.			… < 7h		X	
19.		Insufficient split daily rest period of less than 3h + 9h	3h + [7h ≤ …< 8h]			X
20.			3h + [… < 7h]		X	

	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
21.	Article 6(5)	Insufficient daily rest period of less than 9h for multi-manning	7h ≤ … < 8h			X
22.			… < 7h		X	
23.	Article 6(6)	Insufficient reduced weekly resting period of less than 24h	20h ≤ … < 22h			X
24.			… < 20h		X	
25.		Insufficient weekly resting period of less than 45h if reduced weekly resting period not allowed	36h ≤ … < 42h			X
26.			… < 36h		X	
27.		Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	3h ≤ … < 12h			X
28.			12h ≤ …		X	
29.	Article 6(7)	No compensation rest for two consecutive reduced weekly rest periods			X	
30.	Article 6(9)	Regular weekly rest period or any weekly rest period of more than 45 hours taken in a vehicle			X	
31.		The employer not covering costs for accommodation outside the vehicle				X
Work organisation						
32.	Article 6(10)	Transport undertaking not organising the work of drivers in such a way that the drivers are able to return to the employer's operational centre, or to return to the drivers' place of residence			X	
33.	Article 7(1)	Link between wage/payment and distance travelled, speed of delivery and/or amount of goods carried			X	

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
34.	Article 7(2)	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X	

(2) Groups of infringements of Section 4 of Part B and Section 2 of Part C of this Annex

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Installation of tachograph					
1.	Articles 3 and 5 of Section 2 of Part C and Appendix 27-A-1-1	Not having type-approved tachograph installed and used	X		
Use of tachograph, driver card or record sheet					
2.	Article 6(1) of Section 2 of Part C	Using a tachograph not inspected by an approved workshop		X	
3.	Article 3 of Section 4 of Part B and Appendix 27-A-1-1	Driver holding and/or using more than one own driver card		X	
4.		Driving with a driver card that has been falsified (considered as driving without driver card)	X		
5.		Driving with a driver card of which the driver is not the holder (considered as driving without driver card)	X		
6.		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (considered as driving without driver card)	X		
7.	Article 7(1) of Section 4 of Part B and Article 15(1) of Section 2 of Part C	Tachograph not correctly functioning (e.g.: tachograph not properly inspected, calibrated and sealed)		X	
8.		Tachograph improperly used (e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.)		X	

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
9.	Article 7(2) of Section 4 of Part B and Appendix 27-A-1-1	Having in the vehicle and/or using a fraudulent device able to modify the records of the tachograph	X		
10.		Falsifying, concealing, supressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X		
11.	Article 15(2) of Section 2 of Part C	Undertaking not keeping record sheets, printouts and downloaded data		X	
12.		Recorded and stored data not available for at least a year		X	
13.	Article 6(1) of Section 4 of Part B	Incorrect use of record sheets/driver card		X	
14.		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X	
15.		Record sheet or driver card used to cover a period longer than that for which it is intended, and data is lost		X	
16.	Article 6(2) of Section 4 of Part B	Use dirty or damaged record sheets or drivers card and data not legible		X	
17.	Article 6(3) of Section 4 of Part B	Not using manual input when required to do so		X	
18.	Article 6(4) of Section 4 of Part B	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
19.	Article 6(5) of Section 4 of Part B	Incorrect use of switch mechanism		X	
Producing information					
20.	Article 6(5), point (b)(v) of Section 4 of Part B	Incorrect use or non-use of the ferry/train sign			X
21.	Article 6(6) of Section 4 of Part B	Required information not entered on the record sheet		X	
22.	Article 6(7) of Section 4 of Part B	Records not showing the symbols of the countries whose borders were crossed by the driver during the daily working period			X
23.	Article 6(7) of Section 4 of Part B	Records not showing the symbols of the countries where the driver's daily working period started and finished			X
24.	Article 10 of Section 4 of Part B	Refusing to be checked		X	
25.		Unable to produce manual records and printouts made during the current day and the previous 56 days		X	
26.		Unable to produce a driver card, if the driver holds one		X	
Malfunctioning					
27.	Article 16(1) and Article 5(1) of Section 2 of Part C	Tachograph not repaired by an approved fitter or workshop		X	
28.	Article 11 of Section 4 of Part B	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X	

(3) Groups of infringements of Section 3 of Part B of this Annex

	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
Maximum weekly working time						
1.	Article 3	Exceeding maximum weekly working time of 48h if possibilities to extend to 60h already consumed	56h ≤ … 60h			X
2.			60h ≤ …		X	
3.		Exceeding maximum weekly working time of 60h if no derogation under Article 7 granted	65 ≤ … < 70h			X
4.			70h ≤ …		X	
Breaks						
5.	Article 4	Insufficient obligatory break taken when working time between 6 and 9 hours	10 < … ≤ 20 min			X
6.			… ≤ 10 min		X	
7.		Insufficient obligatory break taken when working time over 9 hours	20 < … ≤ 30min			X
8.			… ≤ 20 min		X	
Night work						
9.	Article 6	Daily working time in each 24h when night work performed if no derogation under Article 7 granted	11h ≤ … < 13h			X
10.			13h ≤ …		X	
Records						
11.	Article 8	Employers falsifying working time records or refusing to provide records to inspection officer			X	
12.		Employed/self-employed drivers falsifying records or refusing to provide records to inspection officer			X	

(4) Groups of infringements of Section 1 of Part C of this Annex

	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
Weights						
1.	Article 1 and Appendix 27-A-1-1	Exceed maximum permissible weights for N3 vehicles	5 % ≤ … < 10 %			X
2.			10 % ≤ … < 20 %		X	
3.			20 % ≤ …	X		
4.		Exceed maximum permissible weight for N2 vehicles	5 % ≤ … < 15 %			X
5.			15 % ≤ … < 25 %		X	
6.			25 % ≤ …	X		
Lengths						
7.	Article 1	Exceed maximum permissible length	2 % < … < 20 %			X
8.			20 % ≤ …		X	
Width						
9.	Article 1	Exceed maximum permissible width	2,65 ≤ … < 3,10 metres			X
10.			3,10 metres ≤ …		X	

(5) Groups of infringements of rules on technical roadside inspection

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Roadworthiness					
1.	Annex 27, Part A, Article 6(1)(b)(iv) and Appendix 27-A-1-1	Driving without a valid proof of roadworthiness tests passed, as required by the Union law and the law of the United Kingdom, in respect of Gibraltar	X		
2.		Not keeping a vehicle in a safe and roadworthy condition resulting in a very serious deficiency of the braking system, the steering linkages, the wheels/tyres, the suspension or chassis or other equipment that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle	X		

(6) Groups of infringements of rules on speed limitation devices

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(vii)	Speed limitation device not fitted	X		
2.		Speed limitation device not satisfying the applicable technical requirements		X	
3.		Speed limitation device not fitted by an approved workshop			X
4.		Having and/or using a fraudulent device able to falsify data of speed limitation device or having and/or using a fraudulent speed limitation device	X		

(7) Groups of infringements of Section 1 of Part B of this Annex

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Training and Licence					
1.	Article 3	Carrying goods without a compulsory initial qualification and/or compulsory periodic training		X	
2.	Article 9 and Appendix 27-B-1-2	Driver unable to present the valid qualification card or the driving licence with the marking, as required by the national law (e.g.: lost, forgotten, damaged, unreadable)			X

(8) Groups of infringements of driving licence requirements

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(viii) and Appendix 27-A-1-1	Carrying goods without holding a valid driving licence	X		
2.		Using a driving licence which is damaged or unreadable or not in line with common model			X

(9) Groups of infringements of rules on the transport of dangerous goods by road

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(vi) and Appendix 27-A-1-1	Transporting dangerous goods that are prohibited for transport	X		
2.		Transporting dangerous goods in a prohibited or non-approved means of containment, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle	X		
3.		Transporting dangerous goods without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle	X		
4.		Leakage of dangerous substances		X	
5.		Carriage in bulk in a container which is not structurally serviceable		X	
6.		Carriage in a vehicle without an appropriate certificate of approval		X	
7.		Vehicle no longer complies with the approval standards and presents an immediate danger		X	

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
8.		The rules governing the securing and stowage of the load have not been complied with		X	
9.		The rules governing mixed loading of packages have not been complied with		X	
10.		The provisions limiting the quantities carried in one transport unit have not been complied with, including permissible degrees of filling tanks or packages;		X	
11.		Information relevant to the substance being carried enabling determination of level of seriousness of offence is missing (e.g. UN number, proper shipping name, packing group)		X	
12.		Driver does not hold a valid vocational training certificate		X	
13.		Fire or an unprotected light is being used		X	
14.		The ban on smoking is not being observed.		X	
15.		The vehicle is not properly supervised or parked			X
16.		The transport unit comprises more than one trailer/semi-trailer			X
17.		Vehicle no longer complies with the approval standards but does not present an immediate danger			X
18.		The vehicle is not carrying operational fire extinguishers as required			X

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
19.		The vehicle does not carry the equipment required in the ADR or in the instructions in writing			X
20.		Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried			X
21.		Carriage of packaged goods in a container which is not structurally serviceable			X
22.		Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly			X
23.		Incorrect labelling, marking or placarding on the vehicle and/or containment			X
24.		There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried			X

(10) Groups of infringements of Chapter 2 of Title III of Part Three of this Agreement, unless stated otherwise

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Licence					
1.	Article 278(1) and Appendix 27-A-1-1	Carrying goods without holding a valid licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		
2.	Article 278(3)	The haulage undertaking or the driver unable to present a valid licence or a valid certified true copy of the licence to the inspecting officer (i.e.: licence or certified true copy of the licence lost, forgotten, damaged, etc.)		X	
Driver attestation					
3.	Annex 27, Part A, Article 6(1)(b)(v)	Drivers carrying goods without holding a valid driver attestation (i.e. driver's attestation is non-existent, falsified; withdrawn, expired, etc.)		X	
4.	Annex 27, Part A, Article 6(1)(b)(v)	The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer (i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.)			X
Specific transport operations allowed under this Agreement					
5.	Article 277	Carrying out cabotage or other transport operations not in compliance with the laws, regulations and administrative provisions, including limitations on the number of journeys, in force in the host Party.		X	

(11) Groups of infringements of rules on animal transport

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(x)	Partitions are not strong enough to withstand the weight of animals		X	
2.		Using loading or unloading ramps that have slippery surfaces, that lack lateral protections or that are too steep			X
3.		Using lifting platforms or upper floors that do not have safety barriers preventing animals from falling or escaping during loading and unloading operations			X
4.		Means of transport not approved for long journeys, or not approved for the type of animals being transported.			X
5.		Transporting without valid required documentation, journey log or transporter authorisation or certificate of competence			X

(12) Groups of infringements of laws applicable to contractual obligations

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(xii)	Violation of the law applicable to contractual obligations		X	

Degrees of seriousness of serious infringements

(1) The degrees of seriousness of infringements shall be serious ("SI"), very serious ("VSI") and most serious ("MSI").

(2) Serious and very serious infringements, when committed repeatedly by the same operator, shall be regarded as more serious by the competent authority in the Party of establishment. When calculating the frequency of occurrence of repeated infringements, the competent authorities in the Party shall take into account the following factors:

– The seriousness of the infringements (SI or VSI);

– Time (at least one rolling year from the date of a control);

– Number of vehicles used for the transport activities managed by the transport manager (average per year).

(3) Taking into account the potential of creating a risk to road safety, the maximum frequency of serious infringements beyond which they should be considered as more serious shall be established as follows:

– three SI per vehicle and per year = one VSI;

– three VSI per vehicle and per year = launch of a national procedure on good repute.

(4) The number of infringements per vehicle per year is an average figure calculated by dividing the total number of all infringements of the same level of seriousness (SI or VSI) by the average number of vehicles used during the year. The frequency formula provides for a maximum threshold for occurrence of serious infringements beyond which they shall be considered more serious. Competent authorities in the Parties may establish stricter thresholds if envisaged in their national administrative procedure for assessing good repute.

Appendix 27-A-1-2

PART I

LIST OF SUBJECTS
REFERRED TO IN ARTICLE 8 OF PART A OF THIS ANNEX

The knowledge to be taken into consideration for the official recognition of professional competence by the Parties must cover at least the subjects listed below. In relation to those subjects, applicant road haulage operators must have the levels of knowledge and practical aptitude necessary for the management of a transport undertaking.

The minimum level of knowledge, as indicated below, must correspond at least to the level of knowledge acquired during the course of compulsory education, which is supplemented either by vocational training and supplementary technical training or by secondary school or other technical training.

A. Civil law

The applicant must, in particular:

(a) be familiar with the main types of contract used in road transport and with the rights and obligations arising therefrom;

(b) be capable of negotiating a legally valid transport contract, notably with regard to conditions of carriage;

(c) be able to consider a claim by the applicant's principal regarding compensation for loss of or damage to goods during transportation or for their late delivery, and to understand how such a claim affects the applicant's contractual liability; and

(d) be familiar with the rules and obligations arising from the CMR Convention on the Contract for the International Carriage of Goods by Road, done in Geneva on 19 May 1956.

B. Commercial law

The applicant must, in particular:

(a) be familiar with the conditions and formalities laid down for plying the trade, the general obligations incumbent upon transport operators (registration, record keeping, etc.) and the consequences of bankruptcy; and

(b) have appropriate knowledge of the various forms of commercial companies and the rules governing their constitution and operation.

C. Social law

The applicant must, in particular, be familiar with the following:

(a) the role and function of the various social institutions which are concerned with road transport (trade unions, works councils, shop stewards, labour inspectors, etc.);

(b) the employers' social security obligations;

(c) the rules governing work contracts for the various categories of worker employed by road transport undertakings (form of the contracts, obligations of the parties, working conditions and working hours, paid leave, remuneration, breach of contract, etc.);

(d) the rules applicable to driving time, rest periods and working time, and the practical measures for applying those provisions; and

(e) the rules applicable to the initial qualification and continuous training of drivers laid down in Section 1 of Part B of this Annex.

D. Fiscal law

The applicant must, in particular, be familiar with the rules governing:

(a) value added tax ("VAT") on transport services;

(b) motor-vehicle tax;

(c) the taxes on certain road haulage vehicles and tolls and infrastructure user charges; and

(d) income tax.

E. Business and financial management

The applicant must, in particular:

(a) be familiar with the laws and practices regarding the use of cheques, bills of exchange, promissory notes, credit cards and other means or methods of payment;

(b) be familiar with the various forms of credit (bank credit, documentary credit, guarantee deposits, mortgages, leasing, renting, factoring, etc.) and the charges and obligations arising therefrom;

(c) know what a balance sheet is, how it is set out and how to interpret it;

(d) be able to read and interpret a profit and loss account;

(e) be able to assess the undertaking's profitability and financial position, in particular on the basis of financial ratios;

(f) be able to prepare a budget;

(g) be familiar with the cost elements of the undertaking (fixed costs, variable costs, working capital, depreciation, etc.), and be able to calculate costs per vehicle, per kilometre, per journey or per tonne;

(h) be able to draw up an organisation chart relating to the undertaking's personnel as a whole and to organise work plans, etc.;

(i) be familiar with the principles of marketing, publicity and public relations, including transport services, sales promotion and the preparation of customer files, etc.;

(j) be familiar with the different types of insurance relating to road transport (liability, accidental injury/life insurance, non-life and luggage insurance) and the guarantees and obligations arising therefrom;

(k) be familiar with the applications of electronic data transmission in road transport;

(l) be able to apply the rules governing the invoicing of road haulage services and know the meaning and implications of Incoterms; and

(m) be familiar with the different categories of transport auxiliaries, their role, their functions and, where appropriate, their status.

F. Access to the market

The applicant must, in particular, be familiar with the following:

(a) the occupational regulations governing road transport, industrial vehicle rental and subcontracting, and in particular the rules governing the official organisation of the occupation, admission to the occupation, authorisations for road transport operations, inspections and penalties;

(b) the rules for setting up a road transport undertaking;

(c) the various documents required for operating road transport services and the introduction of checking procedures to ensure that the approved documents relating to each transport operation, and in particular those relating to the vehicle, the driver, the goods and luggage are kept both in the vehicle and on the premises of the undertaking;

(d) the rules on the organisation of the market in road haulage services, as well as the rules on freight handling and logistics; and

(e) border formalities, the role and scope of T documents and TIR carnets, and the obligations and responsibilities arising from their use.

G. Technical standards and technical aspects of operation

The applicant must, in particular:

(a) be familiar with the rules concerning the weights and dimensions of vehicles in the Parties and the procedures to be followed in the case of abnormal loads which constitute an exception to these rules;

(b) be able to choose vehicles and their components (chassis, engine, transmission system, braking system, etc.) in accordance with the needs of the undertaking;

(c) be familiar with the formalities relating to the type approval, registration and technical inspection of these vehicles;

(d) understand what measures must be taken to reduce noise and to combat air pollution by motor vehicle exhaust emissions;

(e) be able to draw up periodic maintenance plans for the vehicles and their equipment;

(f) be familiar with the different types of cargo-handling and loading devices (tailboards, containers, pallets, etc.) and be able to introduce procedures and issue instructions for loading and unloading goods (load distribution, stacking, stowing, blocking and chocking, etc.);

(g) be familiar with the various techniques of "piggy-back" and roll-on roll-off combined transport;

(h) be able to implement procedures to comply with the rules on the carriage of dangerous goods and waste;

(i) be able to implement procedures to comply with the rules on the carriage of perishable foodstuffs, notably those arising from the

Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP), done at Geneva on 1 September 1970; and

(j) be able to implement procedures to comply with the rules on the transport of live animals.

H. Road safety

The applicant must, in particular:

(a) know what qualifications are required for drivers (driving licence, medical certificates, certificates of fitness, etc.);

(b) be able to take the necessary steps to ensure that drivers comply with the traffic rules, prohibitions and restrictions in force in the Parties (speed limits, priorities, waiting and parking restrictions, use of lights, road signs, etc.);

(c) be able to draw up instructions for drivers to check their compliance with the safety requirements concerning the condition of the vehicles, their equipment and cargo, and concerning preventive measures to be taken;

(d) be able to lay down procedures to be followed in the event of an accident and to implement appropriate procedures to prevent the recurrence of accidents or serious traffic offences; and

(e) be able to implement procedures to properly secure goods and be familiar with the corresponding techniques.

PART II

ORGANISATION OF THE EXAMINATION

1. The Parties will organise a compulsory written examination which they may supplement by an optional oral examination to establish whether applicant road haulage operators have achieved the required level of knowledge in the subjects listed in Part I and in particular their capacity to use the instruments and techniques relating to those subjects and to fulfil the corresponding executive and coordination duties.

   (a) The compulsory written examination will involve two tests, namely:

      (i) written questions consisting of either multiple choice questions (each with four possible answers), questions requiring direct answers or a combination of both systems; and

      (ii) written exercises/case studies.

      The minimum duration of each test will be two hours.

   (b) Where an oral examination is organised, the Parties may stipulate that participation is subject to the successful completion of the written examination.

2. Where the Parties also organise an oral examination, they must provide, in respect of each of the three tests, for a weighting of marks of a minimum of 25 % and a maximum of 40 % of the total number of marks to be given.

   Where the Parties organise only a written examination, they must provide, in respect of each test, for a weighting of marks of a minimum of 40 % and a maximum of 60 % of the total number of marks to be given.

3. With regard to all the tests, applicants must obtain an average of at least 60 % of the total number of marks to be given, achieving in any given test not less than 50 % of the total number of marks possible. In one test only, a Party may reduce that mark from 50 % to 40 %.

Appendix 27-A-1-3

PART A

LICENCE MODEL FOR THE UNION

EUROPEAN COMMUNITY

(a)

(Colour Pantone light blue 290, or as close as possible to this colour,
format DIN A4 cellulose paper 100 g/m^2 or more)

(First page of the licence)

(Text in (one of) the official language(s) of the Member State issuing the licence)

Distinguishing sign of the Member State[1] issuing the licence	Name of the Name of the competent authority or body

LICENCE No …
or
CERTIFIED TRUE COPY No …
for the international carriage of goods by road for hire or reward

This licence entitles[2] ……

……

……

to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys carried out for hire or reward within the territory of the Community, as laid down in Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 (OJ EU L 300, 14.11.2009, p. 72, ELI: http://data.europa.eu/eli/reg/2009/1072/oj) on common rules for access to the international road haulage market and in accordance with the general provisions of this licence.

Particular remarks:	
.....	
This licence is valid from	to .....
Issued in	on .....
.....[3]	

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(1) The distinguishing signs of the Member States are: (B) Belgium, (BG) Bulgaria, (CZ) Czech Republic, (DK) Denmark, (D) Germany, (EST) Estonia, (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (HR) Croatia, (I) Italy, (CY) Cyprus, (LV) Latvia, (LT) Lithuania, (L) Luxembourg, (H) Hungary, (MT) Malta, (NL) Netherlands, (A) Austria, (PL) Poland, (P) Portugal, (RO) Romania, (SLO) Slovenia, (SK) Slovakia, (FIN) Finland, (S) Sweden.

(2) Name or business name and full address of the haulier.

(3) Signature and seal of the issuing competent authority or body.

(b)

(Second page of the licence)

(Text in (one of) the official language(s) of the Member State issuing the licence)

GENERAL PROVISIONS

This licence is issued under Regulation (EC) No 1072/2009.

It entitles the holder to engage in the international carriage of goods by road for hire or reward by any route for journeys or parts of journeys carried out within the territory of the Community and, where appropriate, subject to the conditions laid down herein:

– where the point of departure and the point of arrival are situated in two different Member States, with or without transit through one or more Member States or third countries,
– from a Member State to a third country or vice versa, with or without transit through one or more Member States or third countries,
– between third countries with transit through the territory of one or more Member States, and unladen journeys in connection with such carriage.

In the case of carriage from a Member State to a third country or vice versa, this licence is valid for that part of the journey carried out within the territory of the Community. It shall be valid in the Member State of loading or unloading only after the conclusion of the necessary agreement between the Community and the third country in question in accordance with Regulation (EC) No 1072/2009.

The licence is personal to the holder and is non-transferable.

It may be withdrawn by the competent authority of the Member State which issued it, notably where the holder has:

– not complied with all the conditions for using the licence,
– supplied incorrect information with regard to the data needed for the issue or extension of the licence.

The original of the licence must be kept by the haulage undertaking.

A certified copy of the licence must be kept in the vehicle[(1)]. In the case of a coupled combination of vehicles it must accompany the motor vehicle. It covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the licence holder or if it is registered or authorised to use the roads in another State.

The licence must be presented at the request of any authorised inspecting officer.

Within the territory of each Member State, the holder must comply with the laws, regulations and administrative provisions in force in that State, in particular with regard to transport and traffic.

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(1) "Vehicle" means a motor vehicle registered in a Member State, or a coupled combination of vehicles the motor vehicle of which at least is registered in a Member State, used exclusively for the carriage of goods.

PART B

LICENCE MODEL FOR THE UNITED KINGDOM, IN RESPECT OF GIBRALTAR

United Kingdom, in respect of Gibraltar, Licence for the Community

(a)

(Colour Pantone light blue, format DIN A4 cellulose paper 100 g/m^2 or more)

(First page of the licence)

(Text in English)

UNITED KINGDOM, IN RESPECT OF GIBRALTAR		NAME OF THE UNITED KINGDOM, IN RESPECT OF GIBRALTAR, COMPETENT AUTHORITY[(1)]

LICENCE No:

Or

CERTIFIED TRUE COPY No:

for the international carriage of goods by road for hire or reward

This licence entitles[(2)] _____

_____

_____

to engage in the international carriage of goods by road for hire or reward by any route, for journeys or parts of journeys carried out for hire or reward within the territory of a Member State as laid down in Regulation (EC) No 1072/2009[(3)].

Particular remarks:		
……		to ……
This licence is valid from	on ……	
Issued in		

(1) Competent authority for the relevant territory for which the certificate is issued.

(2) Name or business name and full address of the haulier.

(3) Regulation (EC) No 1072/2009 as retained in the law of the United Kingdom, in respect of Gibraltar, by Section 6 of the Gibraltar European Union (Withdrawal) Act 2019 and as amended by regulations made under Section 11 of that Act.

(b)

(Second page of the licence)

(Text in English)

GENERAL PROVISIONS

This licence is issued under Regulation (EC) No 1072/2009[(1)].

It entitles the holder to engage in the international carriage of goods by road for hire or reward by any route for journeys or parts of journeys carried out within the territory of a Member State permitted by any international agreement between the United Kingdom, in respect of Gibraltar, and the European Union or a Member State.

The licence is personal to the holder and is non-transferable.

It may be withdrawn by the Driver and Vehicles Licensing Department (Gibraltar Government Ministry for Transport, Traffic and Technical Service), for example, where the holder has:

– not complied with all the conditions for using the licence,

– supplied incorrect information with regard to the data needed for the issue or extension of the licence.

The original of the licence must be kept by the haulage undertaking.

A certified copy of the licence must be kept in the vehicle[(2)]. In the case of a coupled combination of vehicles it must accompany the motor vehicle. It covers the coupled combination of vehicles even if the trailer or semi-trailer is not registered or authorised to use the roads in the name of the licence holder or if it is registered or authorised to use the roads in another State.

The licence must be presented at the request of any authorised inspecting officer.

Within the territory of Gibraltar or each Member State, the holder must comply with the laws, regulations and administrative provisions in force in that State, in particular with regard to transport and traffic.

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(1) Regulation (EC) No 1072/2009 as retained in the law of the United Kingdom, in respect of Gibraltar, by Section 6 of the Gibraltar European Union (Withdrawal) Act 2019 and as amended by regulations made under Section 11 of that Act.

(2) "Vehicle" means a motor vehicle registered in Gibraltar, or a Member State, or a coupled combination of motor vehicles the motor vehicle of which at least is registered in Gibraltar or a Member State, used exclusively for the carriage of goods.

Appendix 27-A-1-4

SECURITY FEATURES OF THE LICENCE

The licence must have at least two of the following security features:

– a hologram;

– special fibres in the paper which become visible under UV-light;

– at least one microprint line (printing visible only with a magnifying glass and not reproduced by photocopying machines);

– tactile characters, symbols or patterns;

– double numbering: serial number of the licence, of the certified copy thereof as well as, in each case, the issue number;

– a security design background with fine guilloche patterns and rainbow printing.

Appendix 27-A-1-5

Part 1

Data contained in the national electronic registers of road transport undertakings and conditions of access to this data

1. The national electronic registers referred to in Article 13(1) of Part A of this Annex shall contain at least the following data:

(a) the name and legal form of the road transport undertaking;

(b) the address of its establishment;

(c) the names of the transport managers designated as meeting the requirements laid down in Article 3 of Part A of this Annex relating to good repute and professional competence or, as appropriate, the name of a legal representative;

(d) the type of authorisation, the number of vehicles it covers and, where appropriate, the serial number of the licence referred to in Article 278(1) of this Agreement and of the certified true copies;

(e) the number, category and type of serious infringements, as referred to in Article 6(2) of Part A of this Annex, which have resulted in a conviction or penalty during the last two years;

(f) the name of any person declared to be unfit to manage the transport activities of an undertaking, as long as the good repute of that person has not been re-established pursuant to Article 6(4) of Part A of this Annex, and the rehabilitation measures applicable;

(g) the registration numbers of the vehicles at the disposal of the undertakings pursuant to Article 5(f) of Part A of this Annex; and

(h) the risk rating band of the undertaking pursuant to the law and/or procedures applicable in each Party.

2. The data referred to in points (a) to (d) of paragraph 1 shall be publicly accessible, in accordance with the relevant provisions of the law on personal data protection applicable in each Party.

The competent authorities in each Party may choose to keep the data referred to in points (e) to (h) of paragraph 1 in separate registers. In such cases, the data referred to in points (e) and (f) of paragraph 1 shall be made available upon request or shall be directly accessible to all the competent authorities of the Party in question. The requested information shall be provided within five working days of receipt of the request.

The data referred to in points (g) and (h) of paragraph 1 shall be made available to the competent authorities during roadside checks.

The data referred to in points (e) to (h) of paragraph 1 shall only be accessible to authorities other than the competent authorities where those authorities are duly endowed with powers relating to supervision and the imposition of penalties in the road transport sector and their officials are sworn to secrecy or are otherwise under a formal obligation of secrecy.

3. Data concerning an undertaking whose authorisation has been suspended or withdrawn shall remain in the national electronic register for two years from the expiry of the suspension or the withdrawal of the licence and shall thereafter be immediately removed.

Data concerning any person declared to be unfit for the occupation of road haulage operator shall remain in the national electronic register as long as the good repute of that person has not been re-established pursuant to Article 6(4) of Part A of this Annex. Where such a rehabilitation measure or any other measure having an equivalent effect is taken, the data shall be immediately removed.

The data referred to in the first and second subparagraphs shall specify the reasons for the suspension or withdrawal of the authorisation or the declaration of unfitness, as appropriate, and the corresponding duration.

4. The Parties shall take all necessary measures to ensure that all data contained in the national electronic register are kept up to date and are accurate.

Part 2

Minimum requirements for the data to be entered
in the national electronic register of road transport undertakings

1. The minimum requirements for the data to be entered in the national electronic registers established by competent authorities in each Party in accordance with Article 13 of Part A of this Annex shall be as set out in the Annex to the Commission Decision 2009/992/EU[1] and in Article 1 of Commission Implementing Decision (EU) 2024/2164[2], as adapted by the following paragraphs.

2. For the purposes of this Appendix, the following adaptations to the Annex to Decision 2009/992/EU apply:

   (a) the reference to "Member State" is replaced by "Country"[3];

   (b) the references to "Community licence", wherever they occur, are replaced by "licence referred to in Article 278(1) of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

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1 Commission Decision 2009/992/EU of 17 December 2009 on minimum requirements for the data to be entered in the national electronic register of road transport undertakings (OJ EU L 339, 22.12.2009, p. 36, ELI: http://data.europa.eu/eli/dec/2009/992/oj).

2 Commission Implementing Decision (EU) 2024/2164 of 11 July 2024 on minimum requirements concerning the data of hired vehicles to be entered in national electronic registers of road transport undertakings (OJ EU L, 2024/2164, 20.8.2024, ELI: http://data.europa.eu/eli/dec_impl/2024/2164/oj).

3 Country refers to a Member State for the Union, and to the territory of Gibraltar for the United Kingdom, in respect of Gibraltar.

(c) in the case of the United Kingdom, in respect of Gibraltar, the following fields are not required: "Number of people employed", and "Risk rating";

(d) for "Article 16(2), point (c), of Regulation (EC) No 1071/2009" substitute "point (c) of Part 1 of Appendix 27-A-1-5 of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

3. For the purposes of this Appendix, the data item "Country of Registration of the Vehicle" referred to in Article 1 of Implementing Decision (EU) 2024/2164 shall, in the case of the United Kingdom, in respect of Gibraltar, be set by default to "GI".

Part 3

Modalities for the exchange of information referred to in Article 14(3) and (4) of Part A of this Annex

1. The United Kingdom, in respect of Gibraltar, and the Member States of the Union shall use the European Registers of Road Transport Undertakings ("ERRU"), established by Commission Implementing Regulation (EU) 2016/480[1], for the exchange of information referred to in Article 14(3) and (4) of Part A of this Annex.

2. The United Kingdom, in respect of Gibraltar, shall carry out the

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[1] Commission Implementing Regulation (EU) 2016/480 of 1 April 2016 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings and repealing Regulation (EU) No 1213/2010 (OJ EU L 87, 2.4.2016, p. 4, ELI: http://data.europa.eu/eli/reg_impl/2016/480/oj).

interconnection of its national electronic register to ERRU in accordance with the procedures and technical requirements laid down in Regulation (EU) 2016/480 as adapted by Part 4 of this Appendix.

3. Each Party shall ensure that the processing of personal data in the context of this Appendix is carried out solely for the purpose of verifying compliance with Chapter 2 of Title III of Part Three of this Agreement and with this Annex.

4. The United Kingdom, in respect of Gibraltar, and each Member State of the Union shall designate an ERRU contact point responsible for the exchange of information of the other Party with regard to the application of this Appendix.

Part 4

Adaptations to the technical specifications of ERRU

For the purposes of this Appendix, the following adaptations to Regulation (EU) 2016/480 apply:

1. References to "Member State", wherever they occur, shall be understood as references to "Country"[1] and references to "Member States", wherever they occur, shall be understood as references to "Countries"[2].

2. References to "this Regulation", wherever they occur, "Annexes I to VII to this Regulation" and "Annex VIII to this Regulation" shall be understood as references to "Appendix 27-A-1-5 of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

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[1] Country refers to a Member State for the Union, and to the territory of Gibraltar for the United Kingdom, in respect of Gibraltar.

[2] Countries refers to both the Member States and, for the United Kingdom, in respect of Gibraltar, to the territory of Gibraltar.

3. The references to "Community licence", wherever they occur, shall be understood as references to "licence referred to in Article 278(1) of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

4. In Articles 1 to 3 for "Article 16 of Regulation (EC) No 1071/2009" and "Article 16(5) of Regulation (EC) No 1071/2009", substitute "Appendix 27-A-1-5 of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

5. In Article 2, for "Article 2 of Regulation (EC) No 1071/2009" substitute "Article 2 of Part A of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

6. In Article 2, point (e), for "Article 8(8) of Regulation (EC) No 1071/2009" substitute "Article 280 of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

7. Articles 6 and 7 shall not be applicable for the purposes of this Appendix.

8. In point 1.3 of Annex II:

   (a) for "risk rating and risk rating band" substitute "risk rating band";

   (b) the reference to "number of employees" shall be removed.

9. In the Appendix to Annex III:

(a) the following fields shall not be contained in a Check Transport Undertaking Data Response message: "Number of People Employed", "Risk Rating";

(b) for "Annex IV to Regulation (EC) No 1071/2009 and Annex I to Commission Regulation No (EU) 2016/403", substitute "Appendix 27-A-1-1 and Appendix 27-A-1-1bis of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

10. In Section 1 of Annex VIII, for "Article 11(4) of Regulation (EC) No 1071/2009", substitute "Article 12(2) of Part A of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

11. In Section 2.1 of Annex VIII, for "Directive 2006/22/EC or in Regulation (EC) No 1071/2009" substitute "Appendix 27-A-1-1 and Appendix 27-A-1-1bis of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland".

Part 5

Suspension of the United Kingdom, in respect of Gibraltar, connection to ERRU

The Union may suspend the access of the United Kingdom, in respect of Gibraltar, to ERRU if the United Kingdom, in respect of Gibraltar, ceases to meet the conditions set out in this Appendix.

PART B

REQUIREMENTS FOR DRIVERS INVOLVED IN THE TRANSPORT OF GOODS IN ACCORDANCE WITH ARTICLE 280 OF THIS AGREEMENT

SECTION 1

CERTIFICATE OF PROFESSIONAL COMPETENCE

ARTICLE 1

Scope

This Section applies to the activity of driving by anyone employed or used by a road haulage operator of a Party undertaking journeys referred to in Article 276 or 277 of this Agreement and using vehicles for which a driving licence of category C1, C1+E, C or C+E, or a driving licence recognised as equivalent by the Specialised Committee on Economy and Trade is required.

ARTICLE 2

Exemptions

A certificate of professional competence ("CPC") is not required for drivers of vehicles:

(a) with a maximum authorised speed not exceeding 45 km/h;

(b) used by, or under the control of, the armed forces, civil defence, the fire

service, forces responsible for maintaining public order, and emergency ambulance services, when the carriage is undertaken as a consequence of the tasks assigned to those services;

(c) undergoing road tests for technical development, repair or maintenance purposes, or the drivers of new or rebuilt vehicles which have not yet been put into service;

(d) used in states of emergency or assigned to rescue missions;

(e) carrying material, equipment or machinery to be used by the drivers in the course of their work, provided that driving the vehicles is not the drivers' principal activity; or

(f) used, or hired without a driver, by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity, except if driving is part of the driver's principal activity or the driving exceeds a distance set in national law from the base of the undertaking which owns, hires or leases the vehicle.

ARTICLE 3

Qualification and training

1. The activity of driving as defined in Article 1 shall be subject to a compulsory initial qualification and to compulsory periodic training. To that end the Parties shall provide for:

(a) a system of initial qualification corresponding to one of the following two options:

(i) option combining both course attendance and a test

In accordance with Section 2(2.1) of Appendix 27-B-1-1, this type of initial qualification involves compulsory course attendance for a specific period. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in point (a) of Article 6(1);

(ii) option involving only tests

In accordance with Section 2(2.2) of Appendix 27-B-1-1, this type of initial qualification does not involve compulsory course attendance but only theoretical and practical tests. Upon successful completion of the tests, the qualification shall be certified by a CPC as provided for in point (b) of Article 6(1).

However, a Party may authorise a driver to drive within its territory before obtaining a CPC, where the driver is undergoing a national vocational training course of at least six months, for a maximum period of three years. In the context of that vocational training course, the tests referred to in points (i) and (ii) of this point may be completed in stages; and

(b) a system of periodic training.

In accordance with Section 4 of Appendix 27-B-1-1, periodic training involves compulsory course attendance. It shall be certified by a CPC as provided for in Article 8(1).

2. A Party may also provide for a system of accelerated initial qualification so that a driver may drive in the cases referred to in points (a)(ii) and (b) of Article 5(2).

In accordance with Section 3 of Appendix 27-B-1-1, the accelerated initial

qualification shall involve compulsory course attendance. It shall conclude with a test. Upon successful completion of the test, the qualification shall be certified by a CPC as provided for in Article 6(2).

3. A Party may exempt drivers who have obtained the certificate of professional competence provided for in Part A from the tests referred to in points (a)(i) and (ii) of paragraph 1 and in paragraph 2 of this Article in the subjects covered by the test provided for in that part of this Annex and, where appropriate, from attending the part of the course corresponding thereto.

ARTICLE 4

Acquired rights

Drivers who hold a category C1, C1+E, C or C+E licence, or a licence recognised as equivalent by the Specialised Committee on Economy and Trade, issued no later than 10 September 2009, shall be exempted from the need to obtain an initial qualification.

ARTICLE 5

Initial qualification

1. Access to an initial qualification shall not require the corresponding driving licence to be obtained beforehand.

2. Drivers of a vehicle intended for the carriage of goods may drive:

(a) from the age of 18:

(i) a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(1); and

(ii) a vehicle in licence categories C1 and C1+E, provided they hold a CPC as referred to in Article 6(2);

(b) from the age of 21, a vehicle in licence categories C and C+E, provided they hold a CPC as referred to in Article 6(2).

3. Without prejudice to the age limits specified in paragraph 2, drivers undertaking carriage of goods who hold a CPC as provided for in Article 6 for one of the categories provided for in paragraph 2 of this Article shall be exempted from obtaining such a CPC for any other of the categories of vehicles referred to in that paragraph.

4. Drivers undertaking carriage of goods who broaden or modify their activities in order to carry passengers, or vice versa, and who hold a CPC as provided for in Article 6, shall not be required to repeat the common parts of the initial qualification, but rather only the parts specific to the new qualification.

ARTICLE 6

CPC certifying the initial qualification

1. CPC certifying an initial qualification

(a) CPC awarded on the basis of course attendance and a test

In accordance with point (a)(i) of Article 3(1), the Parties shall require trainee drivers to attend courses in a training centre approved by the competent authorities in accordance with Section 5 of Appendix 27-B-1-1, hereinafter referred to as "approved training centre". Those courses shall cover all the subjects referred to in Section 1 of Appendix 27-B-1-1.

That training shall conclude with successful completion of the test provided for in Section 2(2.1) of Appendix 27-B-1-1. That test shall be organised by the competent authorities in the Parties or an entity designated by them and shall serve to check whether, for the aforementioned subjects, the trainee driver has the level of knowledge required in Section 1 of Appendix 27-B-1-1. The said authorities or entities shall supervise the test and, upon successful completion, issue the drivers with a CPC certifying an initial qualification.

(b) CPC awarded on the basis of tests

In accordance with point (a)(ii) of Article 3(1), the Parties shall require trainee drivers to pass the theoretical and practical tests referred to in Section 2(2.2) of Appendix 27-B-1-1. Those tests shall be organised by the competent authorities in the Parties or an entity designated by them and shall serve to check whether, for all the aforementioned subjects, the trainee driver has the level of knowledge required in Section 1 of Appendix 27-B-1-1. The said authorities or entities shall supervise the tests and, upon successful completion, issue the drivers with a CPC certifying an initial qualification.

2. CPC certifying an accelerated initial qualification

In accordance with Article 3(2), the Parties shall require trainee drivers to attend courses in an approved training centre. Those courses shall cover all the subjects referred to in Section 1 of Appendix 27-B-1-1.

That training shall conclude with the test provided for in Section 3 of Appendix 27-B-1-1. That test shall be organised by the competent authorities in the Parties or an entity designated by them and shall serve to check whether, for the aforementioned subjects, the trainee driver has the level of knowledge required in Section 1 of Appendix 27-B-1-1. The said authorities or entities shall supervise the test and, upon successful completion, issue the drivers with a CPC certifying an accelerated

initial qualification.

ARTICLE 7

Periodic training

Periodic training shall consist of training to enable holders of a CPC to update the knowledge which is essential for their work, with specific emphasis on road safety, health and safety at work, and the reduction of the environmental impact of driving.

That training shall be organised by an approved training centre, in accordance with Section 5 of Appendix 27-B-1-1. Training shall consist of classroom teaching, practical training and, if available, training by means of information and communication technology (ICT) tools or on top-of-the-range simulators. If a driver moves to another undertaking, the periodic training already undergone must be taken into account.

Periodic training shall be designed to expand on, and to revise, some of the subjects referred in Section 1 of Appendix 27-B-1-1. It shall cover a variety of subjects and shall always include at least one road safety related subject. The training subjects shall take into account developments in the relevant legislation and technology, and shall, as far as possible, take into account the specific training needs of the driver.

ARTICLE 8

CPC certifying periodic training

1. When a driver has completed the periodic training referred to in Article 7, the competent authorities in the Parties or the approved training centre shall issue him or her with a CPC certifying periodic training.

2. The following drivers shall undergo a first course of periodic training:

(a) holders of a CPC as referred to in Article 6, within five years of the issue of that CPC; and

(b) the drivers referred to in Article 4, within five years of 10 September 2009.

A Party may reduce or extend the periods of time referred to in point (a) or (b) by a maximum of two years.

3. A driver who has completed a first course of periodic training as referred to in paragraph 2 of this Article shall undergo periodic training every five years, before the end of the period of validity of the CPC certifying periodic training.

4. Holders of the CPC as referred to in Article 6 or the CPC as referred to in paragraph 1 of this Article and the drivers referred to in Article 4 who have ceased pursuit of the occupation and do not meet the requirements of paragraphs 1, 2 and 3 of this Article, shall undergo a course of periodic training before resuming pursuit of the occupation.

5. Drivers undertaking the carriage of goods by road who have completed courses of periodic training for one of the licence categories provided for in Article 5(2) shall be exempt from the obligation to undergo further periodic training for another of the categories provided for in that paragraph.

ARTICLE 9

Enforcement

The competent authorities in a Party shall either affix directly on the driver's driving permit (licence), beside the corresponding categories of licence, a distinguishing sign attesting to the possession of a CPC and indicating the date of expiry, or introduce a special driver qualification card which should be drawn up in

accordance with the model reproduced in Appendix 27-B-1-2. Any other model may be acceptable provided that it is recognised as equivalent by the Specialised Committee on Economy and Trade. The driver qualification card or any equivalent document as specified above issued by the competent authorities in a Party shall be recognised by the other Party for the purposes of this Section.

Drivers must be able to present, at the request of any authorised inspecting officer, a driving permit (licence) or a specific driver qualification card or equivalent document bearing the distinguishing sign confirming possession of a CPC.

Appendix 27-B-1-1

MINIMUM QUALIFICATION AND TRAINING REQUIREMENTS

To ensure that the rules governing the transport of goods by road covered by Articles 276 and 277 of this Agreement are as harmonised as possible, the minimum requirements for driver qualification and training as well as the approval of training centres are set out in Sections 1 to 5 of this Appendix. Any other content for this qualification or training may be acceptable provided that it is considered as equivalent by the Specialised Committee on Economy and Trade.

SECTION 1

LIST OF SUBJECTS

The knowledge to be taken into account by the Parties when establishing the driver's initial qualification and periodic training must include at least the subjects in this list. Trainee drivers must reach the level of knowledge and practical competence necessary to drive in all safety vehicles of the relevant licence category. The minimum level of knowledge may not be less than the level reached during compulsory education, supplemented by professional training.

1. Advanced training in rational driving based on safety regulations

    1.1. Objective: to know the characteristics of the transmission system in order to make the best possible use of it:

    curves relating to torque, power, and specific consumption of an engine, area of optimum use of revolution counter, gearbox-ratio cover diagrams.

1.2. Objective: to know the technical characteristics and operation of the safety controls in order to control the vehicle, minimise wear and tear, and prevent disfunctioning:

limits to the use of brakes and retarder, combined use of brakes and retarder, making better use of speed and gear ratio, making use of vehicle inertia, using ways of slowing down and braking on downhill stretches, action in the event of failure, use of electronic and mechanical devices such as Electronic Stability Program (ESP), Advanced Emergency Braking Systems (AEBS), Anti-Lock Braking System (ABS), traction control systems (TCS) and in vehicle monitoring systems (IVMS) and other, approved for use, driver assistance or automation devices.

1.3. Objective: ability to optimise fuel consumption:

optimisation of fuel consumption by applying know-how as regards points 1.1 and 1.2, importance of anticipating traffic flow, appropriate distance to other vehicles and use of the vehicle's momentum, steady speed, smooth driving style and appropriate tyre pressure, and familiarity with intelligent transport systems that improve driving efficiency and assist in route planning.

1.4. Objective: ability to anticipate, assess and adapt to risks in traffic:

to be aware of and adapt to different road, traffic and weather conditions, anticipate forthcoming events; to understand how to prepare and plan a journey during abnormal weather conditions; to be familiar with the use of related safety equipment and to understand when a journey has to be postponed or cancelled due to extreme weather conditions; to adapt to the risks of traffic, including dangerous behaviour in traffic or distracted driving (through the use of electronic

devices, eating, drinking, etc.); to recognise and adapt to dangerous situations and to be able to cope with stress deriving therefrom, in particular related to size and weight of the vehicles and vulnerable road users, such as pedestrians, cyclists and powered two wheelers;

to identify possible hazardous situations and properly interpret how those potentially hazardous situations may turn into situations where crashes can no longer be averted and selecting and implementing actions that increase the safety margins to such an extent that a crash can still be averted in case the potential hazards should occur.

1.5. Objective: ability to load the vehicle with due regard for safety rules and proper vehicle use:

forces affecting vehicles in motion, use of gearbox ratios according to vehicle load and road profile, use of automatic transmission systems, calculation of payload of vehicle or assembly, calculation of total volume, load distribution, consequences of overloading the axle, vehicle stability and centre of gravity, types of packaging and pallets; main categories of goods needing securing, clamping and securing techniques, use of securing straps, checking of securing devices, use of handling equipment, placing and removal of tarpaulins.

2. Application of regulations

2.1. Objective: to know the social environment of road transport and the rules governing it:

maximum working periods specific to the transport industry; principles, application and consequences of the rules related to the driving times and rest periods and those related to the tachograph; penalties for failure to use, improper use of and tampering with the tachograph;

knowledge of the social environment of road transport: rights and duties of drivers as regards initial qualification and periodic training.

2.2. Objective: to know the regulations governing the carriage of goods:

transport operating licences, documents to be carried in the vehicle, bans on using certain roads, road-use fees, obligations under standard contracts for the carriage of goods, drafting of documents which form the transport contract, international transport permits, obligations under the CMR Convention on the Contract for the International Carriage of Goods by Road, done in Geneva on 19 May 1956, drafting of the international consignment note, crossing borders, freight forwarders, special documents accompanying goods.

3. Health, road and environmental safety, service, logistics

3.1. Objective: to make drivers aware of the risks of the road and of accidents at work:

types of accidents at work in the transport sector, road accident statistics, involvement of lorries/coaches, human, material and financial consequences.

3.2. Objective: ability to prevent criminality and trafficking in illegal immigrants:

general information, implications for drivers, preventive measures, check list, legislation on transport operator liability.

3.3. Objective: ability to prevent physical risks:

ergonomic principles; movements and postures which pose a risk,

physical fitness, handling exercises, personal protection.

3.4. Objective: awareness of the importance of physical and mental ability:

principles of healthy, balanced eating, effects of alcohol, drugs or any other substance likely to affect behaviour, symptoms, causes, effects of fatigue and stress, fundamental role of the basic work/rest cycle.

3.5. Objective: ability to assess emergency situations:

behaviour in an emergency situation: assessment of the situation, avoiding complications of an accident, summoning assistance, assisting casualties and giving first aid, reaction in the event of fire, evacuation of occupants of a lorry, reaction in the event of aggression; basic principles for the drafting of an accident report.

3.6. Objective: ability to adopt behaviour to help enhance the image of the company:

behaviour of the driver and company image: importance for the company of the standard of service provided by the driver, the roles of the driver, people with whom the driver will be dealing, vehicle maintenance, work organisation, commercial and financial effects of a dispute.

3.7. Objective: to know the economic environment of road haulage and the organisation of the market:

road transport in relation to other modes of transport (competition, shippers), different road transport activities (transport for hire or reward, own account, auxiliary transport activities), organisation of the main types of transport company and auxiliary transport activities, different transport specialisations (road tanker, controlled temperature,

dangerous goods, animal transport, etc.), changes in the industry (diversification of services provided, rail-road, subcontracting, etc.).

SECTION 2

COMPULSORY INITIAL QUALIFICATION PROVIDED FOR IN POINT (a) OF ARTICLE 3(1) OF SECTION 1 OF PART B OF THIS ANNEX

A Party may count specific other training related to the transport of goods by road required under its legislation as part of the training under this Section and under Section 3 of this Appendix.

2.1. Option combining both course attendance and a test

Initial qualification must include the teaching of all subjects in the list under Section 1 of this Appendix. The duration of that initial qualification must be 280 hours.

Each trainee driver must drive for at least 20 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may drive for a maximum of eight hours of the 20 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way they change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

A Party and, in the case of the Union, a Member State may allow part of the training to be delivered by the approved training centre by means of ICT tools, such as e-learning, while ensuring that the high quality and the effectiveness of the training are maintained, and by selecting the subjects where ICT tools can most effectively be deployed. Reliable user identification and appropriate means of control shall be required in such a case.

For the drivers referred to in Article 5(4) of Section 1 of Part B the length of the initial qualification must be 70 hours, including five hours of individual driving.

At the end of that training, the competent authorities in the Parties or the entity designated by them shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under Section 1 of this Appendix.

2.2. Option involving a test

The competent authorities in the Parties or the entity designated by them shall organise the aforementioned theoretical and practical tests to check whether the trainee driver has the level of knowledge required in Section 1 of this Appendix for the subjects and objectives listed there.

(a) The theoretical test shall consist of at least two parts:

(i) questions including multiple-choice questions, questions requiring a direct answer, or a combination of both; and

(ii) case studies.

The minimum duration of the theoretical test must be four hours.

(b) The practical test shall consist of two parts:

(i) a driving test aimed at assessing training in rational driving based on safety regulations. The test must take place, whenever possible, on roads outside built-up areas, on fast roads and on motorways (or similar), and on all kinds of urban highways presenting the different types of difficulties that a driver is liable to encounter. It would be desirable for that test to take place in different traffic density conditions. The driving time on the road must be used optimally in order to assess the candidate in all traffic areas likely to be encountered. The minimum duration of that test must be 90 minutes;

(ii) a practical test covering at least points 1.5, 3.2, 3.3 and 3.5 of Section 1 of this Appendix.

The minimum duration of that test must be 30 minutes.

The vehicle used for the practical test must meet at least the requirements for test vehicles.

The practical test may be supplemented by a third test taking place on special terrain or on a top-of the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way they change with different atmospheric conditions and the time of day or night.

The duration of that optional test is not fixed. Should the driver undergo such a test, its duration may be deducted from the 90 minutes of the driving test referred to under point (i), but the time deducted may not exceed 30 minutes.

For the drivers referred to in Article 5(4) of Section 1 of Part B, the theoretical test must be limited to the subjects, referred to in Section 1 of this Appendix, which are relevant to the vehicles to which the new initial qualification applies. However, such drivers must undergo the whole practical test.

SECTION 3

ACCELERATED INITIAL QUALIFICATION PROVIDED FOR IN ARTICLE 3(2) OF SECTION 1 OF PART B OF THIS ANNEX

Accelerated initial qualification must include the teaching of all subjects in the list in Section 1 of this Appendix. Its duration must be 140 hours.

Each trainee driver must drive for at least 10 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may drive for a maximum of four hours of the 10 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way those road conditions change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

The provisions of the fourth paragraph of point 2.1 of Section 2 of this Appendix shall also apply to the accelerated initial qualification.

For the drivers referred to in Article 5(4) of Section 1 of Part B, the length of the accelerated initial qualification must be 35 hours, including two-and-a-half hours of individual driving.

At the end of that training, the competent authorities in the Parties or the entity designated by them shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under Section 1 of this Appendix.

A Party may count specific other training related to the transport of goods by road required under its legislation as part of the training under this Section.

SECTION 4

COMPULSORY PERIODIC TRAINING PROVIDED FOR IN POINT (b) OF ARTICLE 3(1) OF SECTION 1 OF PART B OF THIS ANNEX

Compulsory periodic training courses must be organised by an approved training centre. Their duration must be of 35 hours every five years, given in periods of at least seven hours, which may be split over two consecutive days. Whenever e-learning is used, the approved training centre shall ensure that the proper quality of the training is maintained, including by selecting the subjects where ICT tools can most effectively be deployed. In particular, the Parties shall require reliable user identification and appropriate means of control. The maximum duration of the e-learning training shall not exceed 12 hours. At least one of the training course periods shall cover a road safety related subject. The content of the training shall take into account training needs specific to the transport operations carried out by

the driver and relevant legal and technological developments and should, as far as possible, take into account specific training needs of the driver. A range of different subjects should be covered over the 35 hours, including repeat training where it is shown that the driver needs specific remedial training.

A Party and, in the case of the Union, a Member State may count specific other training related to the transport of goods by road required under its legislation as part of the training under this Section.

SECTION 5

APPROVAL OF THE INITIAL QUALIFICATION AND PERIODIC TRAINING

5.1. The training centres taking part in the initial qualification and periodic training must be approved by the competent authorities in the Parties. Approval may be given only in response to a written application. The application must be accompanied by documents including:

5.1.1. a suitable qualification and training programme specifying the subjects taught and setting out the proposed implementing plan and teaching methods;

5.1.2. the instructors' qualifications and fields of activity;

5.1.3. information about the premises where the courses are given, the teaching materials, the resources made available for the practical work, and the vehicle fleet used; and

5.1.4. the conditions regarding participation in the courses (number of participants).

5.2. The competent authority must give approval in writing subject to the

following conditions:

5.2.1. the training must be given in accordance with the documents accompanying the application;

5.2.2. the competent authority must be entitled to send authorised persons to assist in the training courses of the approved centres, and must be entitled to monitor such centres, with regard to the resources used and the proper running of the training courses and tests; and

5.2.3. the approval may be withdrawn or suspended if the conditions of approval are no longer complied with.

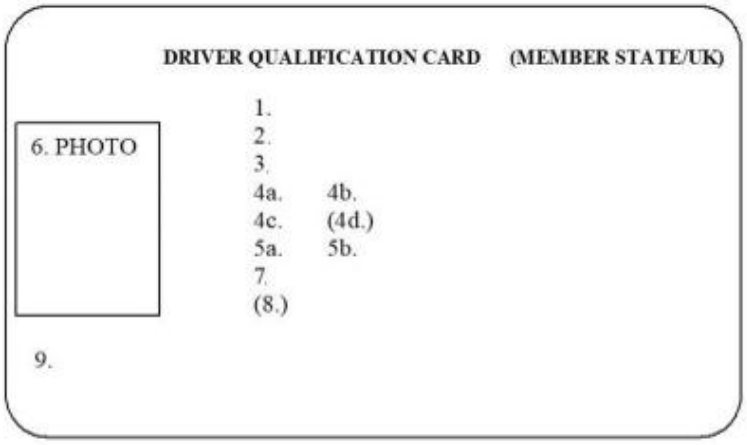
The approved centre must guarantee that the instructors have a sound knowledge of the most recent regulations and training requirements. As part of a specific selection procedure, the instructors must provide certification showing a knowledge of both the subject material and teaching methods. As regards the practical part of the training, instructors must provide certification of experience as professional drivers or similar driving experience, such as that of driving instructors for heavy vehicles.

The programme of instruction must be in accordance with the approval and must cover the subjects in the list in Section 1.

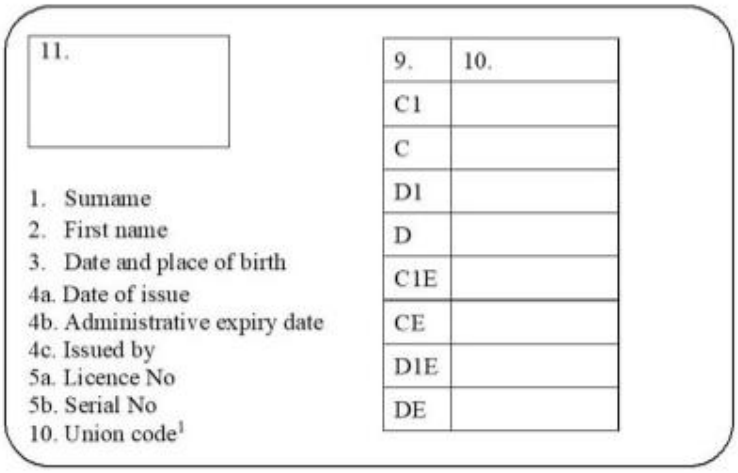
Appendix 27-B-1-2

MODEL OF A DRIVER QUALIFICATION CARD
REFERRED TO IN ARTICLE 9 OF SECTION 1 OF PART B OF THIS ANNEX

Side 1



Side 2



[1] If applicable

SECTION 2

DRIVING TIMES, BREAKS AND REST PERIODS

ARTICLE 1

Scope

1. This Section lays down the rules on driving time, breaks and rest periods for drivers referred to in point (b) of Article 280 of this Agreement undertaking journeys referred to in Articles 276 and 277 of this Agreement.

2. Where a driver undertakes a journey referred to in Article 276 or 277 of this Agreement, the rules in this Section apply to any road transport operation undertaken by that driver.

3. This Section applies:

(a) where the maximum permissible mass of the vehicle, including any trailer, or semitrailer, exceeds 3,5 tonnes; or

(b) from 1 July 2026, where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 2,5 tonnes.

4. This Section does not apply to transport by:

(a) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for:

(i) carrying materials, equipment or machinery for the driver's use in the course of the driver's work, or

(ii) for delivering goods which are produced on a craft basis,

only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver's main activity and transport is not carried out for hire or reward;

(b) vehicles with a maximum authorised speed not exceeding 40 km/h;

(c) vehicles owned or hired without a driver by the armed services, civil defence services, fire services, and forces responsible for maintaining public order when the transport is undertaken as a consequence of the tasks assigned to those services and is under their control;

(d) vehicles used in emergencies or rescue operations;

(e) specialised vehicles used for medical purposes;

(f) specialised breakdown vehicles operating within a 100 km radius of their base;

(g) vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service;

(h) vehicles with a maximum permissible mass, including any trailer, or semi-trailer exceeding 2,5 tonnes but not exceeding 3,5 tonnes that are used for the transport of goods, where the transport is not effected for hire or reward, but on the own account of the company or the driver, and where driving does not constitute the main activity of the person driving the vehicle; or

(i) commercial vehicles, which have a historic status according to the legislation of the Member State in which they are being driven and which are used for the non-commercial transport of goods.

ARTICLE 2

Definitions

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

(a) "transport by road" means any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not;

(b) "break" means any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation;

(c) "other work" means all activities which are defined as working time in point (a) of Article 2(1) of Section 3 of Part B except "driving", including any work for the same or another employer, within or outside of the transport sector;

(d) "rest" means any uninterrupted period during which a driver may freely dispose of his or her time;

(e) "daily rest period" means the daily period during which a driver may freely dispose of his or her time and covers a "regular daily rest period" and a "reduced daily rest period":

(i) "regular daily rest period" means any period of rest of at least 11 hours, which may be taken in two periods, the first of which must be an uninterrupted period of at least three hours and the second an uninterrupted period of at least nine hours; and

(ii) "reduced daily rest period" means any period of rest of at least nine hours but less than 11 hours;

(f) "weekly rest period" means the weekly period during which a driver may freely dispose of his or her time and covers a "regular weekly rest period" and a "reduced weekly rest period":

(i) "regular weekly rest period" means any period of rest of at least 45 hours; and

(ii) "reduced weekly rest period" means any period of rest of less than 45 hours, which may, subject to the conditions laid down in Article 6(6) and 6(7), be shortened to a minimum of 24 consecutive hours;

(g) "a week" means the period of time between 00.00 on Monday and 24.00 on Sunday;

(h) "driving time" means the duration of driving activity recorded:

(i) automatically or semi-automatically by the tachograph as defined in points (e), (f), (g) and (h) of Article 2(2) of Section 4 of Part B of this Annex; or

(ii) manually as required by Article 9(2) and Article 11 of Section 4 of Part B of this Annex;

(i) "daily driving time" means the total accumulated driving time between the end of one daily rest period and the beginning of the following daily rest period or between a daily rest period and a weekly rest period;

(j) "weekly driving time" means the total accumulated driving time during a week;

(k) "maximum permissible mass" means the maximum authorised operating mass of a vehicle when fully laden;

(l) "multi-manning" means the situation where, during each period of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest period, there are at least two drivers in the vehicle to do the driving for the first hour of multi-manning the presence of another driver or drivers is optional but for the remainder of the period it is compulsory;

(m) "driving period" means the accumulated driving time from when a driver commences driving following a rest period or a break until the driver takes a rest period or a break; the driving period may be continuous or broken.

ARTICLE 3

Requirement for drivers' mates

The minimum age for drivers' mates shall be 18 years. However, each Party and, in the case of the Union, a Member State may reduce the minimum age for drivers' mates to 16 years, provided that the reduction is for the purposes of vocational training and there is compliance with the limits imposed by the United Kingdom, in respect of Gibraltar, and, for the Union, the Member State's national rules on employment matters.

ARTICLE 4

Driving times

1. The daily driving time shall not exceed nine hours.

However, the daily driving time may be extended to at most 10 hours not more than twice during the week.

2. The weekly driving time shall not exceed 56 hours and shall not result in the maximum weekly working time of 60 hours being exceeded.

3. The total accumulated driving time during any two consecutive weeks shall not exceed 90 hours.

4. Daily and weekly driving times shall include all driving time on the territory of the Parties.

5. A driver shall record as other work any time spent as described in point (c) of Article 2 of this Section as well as any time spent driving a vehicle used for commercial operations where a driver is not required to record driving time, and shall record any periods of availability, as defined in point (2) of Article 2 of Section 3 of Part B, in accordance with point (b)(iii) of Article 6(5) of Section 4 of Part B. This record shall be entered either manually on a record sheet or printout or by use of manual input facilities on recording equipment.

ARTICLE 5

Breaks

After a driving period of four and a half hours a driver shall take an uninterrupted break of not less than 45 minutes, unless the driver takes a rest period.

That break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes each distributed over the period in such a way as to comply with the provisions of the first paragraph.

A driver engaged in multi-manning may take a break of 45 minutes in a vehicle driven by another driver provided that the driver taking the break is not involved in assisting the driver driving the vehicle.

ARTICLE 6

Rests

1. A driver shall take daily and weekly rest periods.

2. Within each period of 24 hours after the end of the previous daily rest period or weekly rest period a driver shall have taken a new daily rest period.

If the portion of the daily rest period which falls within that 24-hour period is at least nine hours but less than 11 hours, then the daily rest period in question shall be regarded as a reduced daily rest period.

3. A daily rest period may be extended to make a regular weekly rest period or a reduced weekly rest period.

4. A driver may have at most three reduced daily rest periods between any two weekly rest periods.

5. By way of derogation from paragraph 2, within 30 hours of the end of a daily or weekly rest period, a driver engaged in multi-manning must have taken a new daily rest period of at least nine hours.

6. In any two consecutive weeks a driver shall take at least:

(a) two regular weekly rest periods; or

(b) one regular weekly rest period and one reduced weekly rest period of at least 24 hours.

A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period.

7. By way of derogation from paragraph 6, a driver engaged in international transport of goods may, outside the territory of the Party of the road haulage operator or, for drivers of Union road haulage operators, outside the territory of the Member State of the road haulage operator, take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.

For the purpose of this paragraph, a driver shall be considered to be engaged in international transport where the driver starts the two consecutive reduced weekly rest periods outside the territory of the Party of the road haulage operator and drivers' place of residence or, for the Union, outside the territory of the Member State of the road haulage operator and the country of the drivers' place of residence.

Any reduction in weekly rest period shall be compensated by an equivalent period of rest taken *en bloc* before the end of the third week following the week in question.

Where two reduced weekly rest periods have been taken consecutively in accordance with the third subparagraph, the next weekly rest period shall be preceded by a rest period taken as compensation for those two reduced weekly rest periods.

8. Any rest taken as compensation for a reduced weekly rest period shall be attached to another rest period of at least nine hours.

9. The regular weekly rest periods and any weekly rest period of more than 45 hours taken in compensation for previous reduced weekly rest periods shall not be taken in a vehicle. They shall be taken in suitable gender-friendly accommodation with adequate sleeping and sanitary facilities.

Any costs for accommodation outside the vehicle shall be covered by the employer.

10. Transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in Gibraltar and, in the case of the Union, the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for reduced weekly rest period.

However, where the driver has taken two consecutive reduced weekly rest periods in accordance with paragraph 7, the transport undertaking shall organise the work of the driver in such a way that the driver is able to return before the start of the regular weekly rest period of more than 45 hours taken in compensation.

The undertaking shall document how it fulfils that obligation and shall keep the documentation at its premises in order to present it at the request of control authorities.

11. A weekly rest period that falls in two weeks may be counted in either week, but not in both.

12. By way of derogation, where a driver accompanies a vehicle which is

transported by ferry or train and takes a regular daily rest period or a reduced weekly rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest or reduced weekly rest period the driver shall have access to a sleeper cabin, bunk or couchette at their disposal.

With regard to regular weekly rest periods, that derogation shall only apply to ferry or train journeys where:

(a) the journey is scheduled for eight hours or more; and

(b) the driver has access to a sleeper cabin in the ferry or on the train.

13. Any time spent travelling to a location to take charge of a vehicle falling within the scope of this Section, or to return from that location, when the vehicle is neither at the driver's home nor at the employer's operational centre where the driver is normally based, shall not be counted as a rest or break unless the driver is on a ferry or train and has access to a sleeper cabin, bunk or couchette.

14. Any time spent by a driver driving a vehicle which falls outside the scope of this Section to or from a vehicle which falls within the scope of this Section, which is not at the driver's home or at the employer's operational centre where the driver is normally based, shall count as other work.

ARTICLE 7

Liability of road haulage operators

1. A road haulage operator of a Party shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled, the speed of delivery and/or the amount of goods carried if that payment is of such a kind as to endanger road safety and/or

encourages infringement of this Section.

2. A road haulage operator of a Party shall organise road transport operations and properly instruct crew members so that they are able to comply with the provisions of this Section.

3. A road haulage operator of a Party shall be liable for infringements committed by drivers of the operator, even if the infringement was committed on the territory of the other Party.

Without prejudice to the right of the Parties to hold road haulage operators fully liable, the Parties may make this liability conditional on the operator's infringement of paragraphs 1 and 2. The Parties may consider any evidence that the road haulage operator cannot reasonably be held responsible for the infringement committed.

4. Road haulage operators, consignors, freight forwarders, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect this Section.

5. A road haulage operator which uses vehicles that are fitted with recording equipment complying with point (f), (g) or (h) of Article 2 of Section 4 of Part B and that fall within the scope of this Section, shall:

(i) ensure that all data are downloaded from the vehicle unit and driver card as regularly as is stipulated by the Party and that relevant data are downloaded more frequently so as to ensure that all data concerning activities undertaken by or for that road haulage operator are downloaded; and

(ii) ensure that all data downloaded from both the vehicle unit and driver card are kept for at least 12 months following recording and, should an inspecting officer request it, such data are accessible, either directly or remotely, from the premises of the road haulage operator.

For the purposes of this paragraph "downloaded" shall be interpreted in accordance with the definition laid down in point (g) of Article 2(2) of Section 2 of Part C.

The maximum period within which the relevant data shall be downloaded under point (i) of this paragraph shall be 90 days for data from the vehicle unit and 28 days for data from the driver card.

ARTICLE 8

Exceptions

1. Provided that road safety is not thereby jeopardised and to enable the vehicle to reach a suitable stopping place, the driver may depart from Articles 4, 5 and 6 to the extent necessary to ensure the safety of persons, of the vehicle or its load. The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the suitable stopping place.

2. Provided that road safety is not thereby jeopardised, in exceptional circumstances, the driver may also depart from Article 4(1) and (2) and from Article 6(2) by exceeding the daily and weekly driving time by up to one hour in order to reach the employer's operational centre or the driver's place of residence to take a weekly rest period.

Under the same conditions, the driver may exceed the daily and weekly driving time by up to two hours, provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving in order to reach the employer's operational centre or the driver's place of residence for taking a regular weekly rest period.

The driver shall indicate the reason for such departure manually on the record sheet

of the recording equipment, or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or the suitable stopping place.

Any period of extension shall be compensated by an equivalent period of rest taken *en bloc* with any rest period, by the end of the third week following the week in question.

3. Provided that road safety is not thereby jeopardised, each Party and, in the case of the Union, a Member State may grant exceptions from Articles 3 to 6 and make such exceptions subject to individual conditions on its own territory or, with the agreement of the other Party, on the territory of the other Party, applicable to transport by the following:

(a) vehicles owned or hired, without a driver, by public authorities to undertake transport by road which do not compete with private road haulage operators;

(b) vehicles used or hired, without a driver, by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a radius of up to 100 km from the base of the undertaking;

(c) agricultural tractors and forestry tractors used for agricultural or forestry activities, within a radius of up to 100 km from the base of the undertaking which owns, hires or leases the vehicle;

(d) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used by universal service providers to deliver items as part of the universal service. Those vehicles shall be used only within a 100 km radius from the base of the undertaking, and on condition that driving the vehicles does not constitute the driver's main activity;

(e) vehicles operating exclusively on islands not exceeding 2 300 square kilometres in area which are not linked to the rest of the national

territory by a bridge, ford or tunnel open for use by motor vehicles;

(f) vehicles used for the transport of goods within a 100 km radius from the base of the undertaking and propelled by means of natural or liquefied gas or electricity, the maximum permissible mass of which, including the mass of a trailer or semi-trailer, does not exceed 7,5 tonnes;

(g) vehicles used in connection with sewerage, flood protection, water, gas and electricity maintenance services, road maintenance and control, door-to-door household refuse collection and disposal, telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers;

(h) specialised vehicles transporting circus and funfair equipment;

(i) specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary;

(j) vehicles used for milk collection from farms and/or for the return to farms of milk containers or milk products intended for animal feed;

(k) specialised vehicles transporting money and/or valuables;

(l) vehicles used for carrying animal waste or carcasses which are not intended for human consumption;

(m) vehicles used exclusively on roads inside hub facilities such as ports, interports and railway terminals;

(n) vehicles used for the transport of live animals from farms to local markets and vice versa or from markets to local slaughterhouses within a radius of up to 100 km;

(o) vehicles or combinations of vehicles carrying construction machinery for a construction undertaking, up to a radius of 100 km from the base of the undertaking, provided that driving the vehicles does not constitute the driver's main activity; and

(p) vehicles used for the delivery of ready-mixed concrete.

4. Provided that working conditions of drivers and road safety are not thereby jeopardised and that the limits set out in Article 3 of Section 3 of Part B are complied with, a Party, and in the case of the Union, a Member State, may grant temporary exceptions from the application of Articles 4, 5 and 6 of this Section to transport operations carried out in exceptional circumstances, in accordance with the procedure applicable in the Party.

The temporary exceptions shall be duly reasoned and notified immediately to the other Party. The Specialised Committee on Economy and Trade shall specify the modalities of that notification. Each Party shall immediately publish that information on a public website and shall ensure that its enforcement activities take into account an exception granted by the other Party.

SECTION 3

WORKING TIME OF MOBILE WORKERS

ARTICLE 1

Scope

1. This Section applies to mobile workers employed by road haulage operators of the Parties, undertaking journeys referred to in Articles 276 and 277 of this Agreement.

This Section shall also apply to self-employed drivers.

2. This Section shall supplement the provisions of Section 2 of Part B which take precedence over the provisions of this Section.

3. A Party may disapply the application of this Section for mobile workers and self-employed drivers.

4. Where a Party disapplies the application of this Section under paragraph 3, that Party shall notify the other Party.

ARTICLE 2

Definitions

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

(1) "working time" means:

(a) in the case of mobile workers: the time from the beginning to the end of work, during which the mobile worker is at his or her workstation, at the disposal of the employer and exercising his or her functions or activities, that is to say:

– the time devoted to all road transport activities, in particular, the following:

(i) driving;

(ii) loading and unloading;

(iii) assisting passengers boarding and disembarking from the

vehicle;

(iv) cleaning and technical maintenance; and

(v) all other work intended to ensure the safety of the vehicle and its cargo or to fulfil the legal or regulatory obligations directly linked to the specific transport operation under way, including monitoring of loading and unloading, administrative formalities with police, customs, immigration officers etc.; and

– the times during which driver cannot dispose freely of his or her time and is required to be at his or her workstation, ready to take up normal work, with certain tasks associated with being on duty, in particular during periods awaiting loading or unloading where their foreseeable duration is not known in advance, that is to say either before departure or just before the actual start of the period in question, or under the general conditions negotiated between the social partners and/or under the terms of the legislation of the Parties;

(b) in the case of self-employed drivers, the same definition applies to the time from the beginning to the end of work, during which the self-employed driver is at his or her workstation, at the disposal of the client and exercising his or her functions or activities other than general administrative work that is not directly linked to the specific transport operation under way.

The break times referred to in Article 4, the rest times referred to in Article 5 and, without prejudice to the legislation of the Parties or agreements between the social partners providing that such periods should be compensated or limited, the periods of availability referred to in point (2) of this Article, shall

be excluded from working time;

(2) "periods of availability" means:

– periods other than those relating to break times and rest times during which the mobile worker is not required to remain at his or her workstation, but must be available to answer any calls to start or resume driving or to carry out other work. In particular such periods of availability shall include periods during which the mobile worker is accompanying a vehicle being transported by ferryboat or by train as well as periods of waiting at frontiers and those due to traffic prohibitions.

  Those periods and their foreseeable duration shall be known in advance by the mobile worker, that is to say either before departure or just before the actual start of the period in question, or under the general conditions negotiated between the social partners and/or under the terms of the legislation of the Parties;

– for mobile workers driving in a team, the time spent sitting next to the driver or on the couchette while the vehicle is in motion;

(3) "workstation" means:

– the location of the main place of business of the road haulage operator for which the person performing mobile road transport activities carries out duties, together with its various subsidiary places of business, regardless of whether they are located in the same place as its head office or main place of business;

– the vehicle which the person performing mobile road transport activities uses when that person carries out duties; and

– any other place in which activities connected with transportation are carried out;

(4) "mobile worker" means, for the purpose of this Section, any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services for passengers or goods by road on the territory of the other Party;

(5) "self-employed driver" means anyone whose main occupation is the transport of goods by road for hire or reward, who is entitled to work for himself and who is not tied to an employer by an employment contract or by any other type of working hierarchical relationship, who is free to organise the relevant working activities, whose income depends directly on the profits made and who has the freedom to, individually or through a cooperation between self-employed drivers, have commercial relations with several customers.

For the purposes of this Section, those drivers who do not satisfy those criteria shall be subject to the same obligations and benefit from the same rights as those provided for mobile workers by this Section;

(6) "person performing mobile road transport activities" means any mobile worker or self-employed driver who performs such activities;

(7) "week" means the period between 00.00 hours on Monday and 24.00 hours on Sunday;

(8) "night time" means a period of at least four hours, as defined by national law, between 00.00 hours and 07.00 hours; and

(9) "night work" means any work performed during night time.

ARTICLE 3

Maximum weekly working time

1. Each Party shall take the measures necessary to ensure that the average weekly working time may not exceed 48 hours. The maximum weekly working time may be extended to 60 hours only if, over four months, an average of 48 hours a week is not exceeded.

2. Each Party shall take the measures necessary to ensure that working time for different employers is the sum of the working hours. The employer shall ask the mobile worker concerned in writing for an account of time worked for another employer. The mobile worker shall provide such information in writing.

ARTICLE 4

Breaks

Each Party shall take the measures necessary to ensure that, without prejudice to the provisions of Section 2 of Part B of this Annex, persons performing mobile road transport activities, in no circumstances work for more than six consecutive hours without a break. Working time shall be interrupted by a break of at least 30 minutes, if working hours total between six and nine hours, and of at least 45 minutes, if working hours total more than nine hours.

Breaks may be subdivided into periods of at least 15 minutes each.

ARTICLE 5

Rest periods

For the purposes of this Section, apprentices and trainees who are in the service of an undertaking which operates transport services for goods by road journeys on the territory of the other Party shall be covered by the same provisions on rest time as other mobile workers pursuant to Section 2 of Part B of this Annex.

ARTICLE 6

Night work

Each Party shall take the measures necessary to ensure that:

(a) if night work is performed, the daily working time does not exceed 10 hours in each 24 period, and

(b) compensation for night work is given in accordance with national legislative measures, collective agreements, agreements between the two sides of industry and/or national practice, on condition that such compensation is not liable to endanger road safety.

ARTICLE 7

Derogations

1. Derogations from Articles 3 and 6 may, for objective or technical reasons or reasons concerning the organisation of work, be adopted by means of collective agreements, agreements between the social partners, or if that is not possible, by

laws, regulations or administrative provisions provided that there is consultation of the representatives of the employers and workers concerned and efforts are made to encourage all relevant forms of social dialogue.

2. The option to derogate from Article 3 may not result in the establishment of a reference period exceeding six months, for calculation of the average maximum weekly working time of forty-eight hours.

3. The Specialised Committee on Economy and Trade shall be informed of the derogations applied by a Party in accordance with paragraph 1.

ARTICLE 8

Information and records

Each Party shall ensure that:

(a) mobile workers are informed of the relevant national requirements, the internal rules of the road haulage operator and agreements between the two sides of industry, in particular collective agreements and any company agreements, reached on the basis of this Section; and

(b) the working time of persons performing mobile road transport activities is recorded. Records shall be kept for at least two years after the end of the period covered. Employers shall be responsible for recording the working time of mobile workers. Employers shall upon request provide mobile workers with copies of the records of hours worked.

ARTICLE 9

More favourable provisions

This Section shall not affect the right of each Party to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the health and safety of persons performing mobile road transport activities, or their right to facilitate or permit the application of collective agreements or other agreements concluded between the two sides of industry which are more favourable to the protection of the health and safety of mobile workers. Those rules shall be applied in a non-discriminatory manner.

SECTION 4

USE OF TACHOGRAPHS BY DRIVERS

ARTICLE 1

Subject matter and principles

This Section lays down requirements for drivers falling within the scope of Section 2 of Part B regarding the use of tachographs referred to in point (b) of Article 280 of this Agreement.

ARTICLE 2

Definitions

1. For the purposes of this Section, the definitions set out in Article 2 of Section 2 of Part B apply.

2. In addition to the definitions referred to in paragraph 1, for the purposes of this Section the following definitions apply:

(a) "tachograph" or "recording equipment" means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement, including the speed, of such vehicles and details of certain periods of activity of their drivers;

(b) "record sheet" means a sheet designed to accept and retain recorded data, to be placed in an analogue tachograph, and on which the marking devices of the analogue tachograph continuously inscribe the information to be recorded;

(c) "tachograph card" means a smart card, intended for use with the tachograph, which allows identification by the tachograph of the role of the cardholder and allows data transfer and storage;

(d) "driver card" means a tachograph card, issued by the competent authorities in a Party to a particular driver, which identifies the driver and allows for the storage of driver activity data;

(e) "analogue tachograph" means a tachograph complying with the specifications in Annex I to Regulation (EU) No 165/2014 of the European Parliament and of the Council[1], as adapted by Appendix 27-B-4-1;

(f) "digital tachograph" means a tachograph complying with one of the

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[1] Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ EU L 60, 28.2.2014, p. 1, ELI: http://data.europa.eu/eli/reg/2014/165/oj).

following set of specifications, as adapted by Appendix 27-B-4-2:

– Annex IB to Regulation (EEC) No 3821/85 applicable until 30 September 2011;

– Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2011; or

– Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2012;

(g) "smart tachograph 1" means a tachograph complying with Annex IC to Commission Implementing Regulation (EU) 2016/799[1] applicable from 15 June 2019 and until 20 August 2023, as adapted by Appendix 27-B-4-3;

(h) "smart tachograph 2" means a tachograph complying with Annex IC to Implementing Regulation (EU) 2016/799, as adapted by Appendix 27-B-4-4.

(i) "event" means an abnormal operation detected by the digital tachograph which may result from a fraud attempt; and

(j) "non-valid card" means a card detected as faulty, or whose initial authentication failed, or whose start of validity date is not yet reached, or whose expiry date has passed.

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[1] Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (OJ EU L 139, 26.5.2016, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2016/799/oj).

ARTICLE 3

Use of driver cards

1. The driver card is personal.

2. A driver may hold no more than one valid driver card, and is only authorised to use his or her own personalised driver card. A driver shall not use a driver card which is defective or which has expired.

ARTICLE 4

Issuing of driver cards

1. Driver cards shall be requested to the competent authority in the Party where the driver has his or her normal residence.

2. For the purposes of this Article, "normal residence" means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where that person is living.

However, the normal residence of a person whose occupational ties are in a place different from their personal ties and who consequently lives in turn in different places situated in the two Parties shall be regarded as being the place of their personal ties, provided that such person returns there regularly. This last condition does not need to be complied with where the person is living in a Party in order to carry out a fixed-term assignment.

3. Drivers shall give proof of their normal residence by any appropriate means, such as their identity card or any other valid document.

ARTICLE 5

Renewal of driver cards

Where a driver wishes to renew his or her driver card, the driver shall apply to the competent authorities in the Party of his or her normal residence not later than 15 working days before the expiry date of the card.

ARTICLE 6

Use of driver cards and record sheets

1. Drivers shall use record sheets or driver cards every day on which they drive, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised or is necessary in order to enter the symbol of the country after having crossed a border. No record sheet or driver card may be used to cover a period longer than that for which it is intended.

2. Drivers shall adequately protect the record sheets or driver cards, and shall not use dirty or damaged record sheets or driver cards. The driver shall ensure that, taking into account the length of the period of service, the printing of data from the tachograph at the request of a control officer can be carried out correctly in the event of an inspection.

3. When, as a result of being away from the vehicle, a driver is unable to use the tachograph fitted to the vehicle, the periods of time referred to in points (b)(ii), (b)(iii) and (b)(iv) of paragraph 5 shall:

(a) if the vehicle is fitted with an analogue tachograph, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the record sheet; or

(b) if the vehicle is fitted with a digital tachograph, smart tachograph 1 or smart tachograph 2, be entered onto the driver card using the manual entry facility provided for in the tachograph.

Each Party shall not impose on drivers a requirement to present forms attesting to their activities while away from the vehicle.

4. Where there is more than one driver on board a vehicle fitted with a digital, a smart tachograph 1 or smart tachograph 2, each driver shall ensure that his or her driver card is inserted into the correct slot in the tachograph.

Where there is more than one driver on board a vehicle fitted with an analogue tachograph, the drivers shall amend the record sheets as necessary, so that the relevant information is recorded on the record sheet of the driver who is actually driving.

5. Drivers shall:

(a) ensure that the time recorded on the record sheet corresponds to the official time in the country of registration of the vehicle;

(b) operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:

(i) under the sign: driving time,

(ii) under the sign: "other work", which means any activity other than driving, as defined in point (a) of Article 2 of Section 3 of Part B, and also any work for the same or another employer within or outside of the transport sector,

(iii) under the sign: "availability", as defined in point (b) of Article 2 of Section 3 of Part B,

(iv) under the sign: breaks, rest, annual leave or sick leave, and

(v) under the sign for "ferry/train": In addition to the sign: the rest period spent on a ferry or train as required in paragraph 12 of Article 6 of Section 2 of Part B.

6. Each driver of a vehicle fitted with an analogue tachograph shall enter the following information on his or her record sheet:

(a) on beginning to use the record sheet – the driver's surname and first name;

(b) the date and place where use of the record sheet begins and the date and place where such use ends;

(c) the registration number of each vehicle to which the driver is assigned, both at the start of the first journey recorded on the record sheet and then, in the event of a change of vehicle, during use of the record sheet;

(d) the odometer reading:

(i) at the start of the first journey recorded on the record sheet;

(ii) at the end of the last journey recorded on the record sheet; and

(iii) in the event of a change of vehicle during a working day, the reading on the first vehicle to which the driver was assigned and the reading on the next vehicle;

(e) the time of any change of vehicle; and

(f) the symbols of the countries in which the daily working period started and finished. The driver shall also enter the symbol of the country or territory that the driver enters after crossing a border of a Member State and of Gibraltar, at the beginning of the driver's first stop in that Member State or Gibraltar. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.

7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished.

The driver shall also enter the symbol of the country or territory that the driver enters after crossing a border of a Party, or in the case of the Union, a Member State at the beginning of the driver's first stop in that Party, or in the case of the Union, the Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.

A Party or, in the case of the Union, a Member State may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that each Party notifies in advance the other Party about those detailed geographic specifications.

It shall not be necessary for drivers to enter the information referred to in the first sentence of the first subparagraph if the tachograph is automatically recording that location data.

ARTICLE 7

Correct use of tachographs

1. Transport undertakings and drivers shall ensure the correct functioning and proper use of digital tachographs and driver cards. Transport undertakings and drivers using analogue tachographs shall ensure their correct functioning and the proper use of record sheets.

2. It shall be forbidden to falsify, conceal, suppress or destroy data recorded on the record sheet or stored in the tachograph or on the driver card, or print-outs from the tachograph. Any manipulation of the tachograph, record sheet or driver card which could result in data and/or printed information being falsified, suppressed or destroyed shall also be prohibited. No device which could be used to that effect shall be present on the vehicle.

ARTICLE 8

Stolen, lost or defective driver cards

1. Issuing authorities of the Parties shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of validity.

2. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority in the country of the driver's normal residence. Theft of the driver card shall be formally declared to the competent authorities of the State where the theft occurred.

3. Any loss of the driver card shall be reported in a formal declaration to the competent authorities in the issuing Party and to the competent authorities in the Party of the driver's normal residence if that is different.

4. If the driver card is damaged, malfunctions or is lost or stolen, the driver shall, within seven days, apply for its replacement to the competent authorities in the Party of the driver's normal residence.

5. In the circumstances set out in paragraph 4, the driver may continue to drive without a driver card for a maximum period of 15 days or for a longer period if that is necessary for the vehicle to return to the premises where it is based, provided that the driver can prove the impossibility of producing or using the card during that period.

ARTICLE 9

Damaged driver cards and record sheets

1. In the event of damage to a record sheet bearing recordings or to a driver card, drivers shall keep the damaged record sheet or driver card together with any spare record sheet used to replace it.

2. Where a driver card is damaged, malfunctions, or is lost or stolen, the driver shall:

(a) at the start of his or her journey, print out the details of the vehicle that the driver is driving, and enter on that printout:

  (i) details that enable the driver to be identified (name, driver card or driving licence number), including the driver's signature; and

  (ii) the periods referred to in points (b)(ii), (b)(iii) and (b)(iv) of Article 6(5); and

(b) at the end of the journey, print out the information relating to periods of time

recorded by the tachograph, record any periods of other work, availability and rest taken since the printout made at the start of the journey, where not recorded by the tachograph, and mark on that document details enabling the driver to be identified (name, driver card or driving licence number), including the driver's signature.

ARTICLE 10

Records to be carried by the driver

1. Where a driver drives a vehicle fitted with an analogue tachograph, the driver shall be able to produce, whenever an authorised control officer so requests:

(i) the record sheets for the current day and the preceding 28 days;

(ii) the driver card, if one is held; and

(iii) any manual records and printouts made during the current day and the previous 28 days.

2. Where the driver drives a vehicle fitted with a digital, a smart tachograph 1 or smart tachograph 2, the driver shall be able to produce, whenever an authorised control officer so requests:

(i) the driver's driver card;

(ii) any manual records and printouts made during the current day and the previous 28 days; and

(iii) the record sheets corresponding to the same period as that referred to in point (ii) during which the driver drove a vehicle fitted with an analogue tachograph.

From 31 December 2024, the period of 28 days referred to in points (i) and (iii) of paragraph 1 and in point (ii) of paragraph 2 shall be replaced by 56 days.

3. An authorised control officer may check compliance with Section 2 of Part B by analysis of the record sheets, of the displayed, printed or downloaded data which have been recorded by the tachograph or by the driver card or, failing that, of any other supporting document that justifies non-compliance with a provision of that Section.

ARTICLE 11

Procedures for drivers in the event of malfunctioning equipment

While the tachograph is unserviceable or malfunctioning, the driver shall mark data enabling him to be identified (name, driver card or driving licence number), including a signature, as well as the information for the various periods of time which are no longer recorded or printed out correctly by the tachograph:

(a) on the record sheet or sheets; or

(b) on a temporary sheet to be attached to the record sheet or to be kept together with the driver card.

ARTICLE 12

Enforcement measures

1. Each Party shall adopt all appropriate measures to ensure observance of the provisions of Sections 2, 3 and 4 of Part B, in particular by ensuring annually an adequate level of roadside checks and checks performed at the premises of undertakings covering a large and representative cross-section of mobile workers,

drivers, undertakings and vehicles of all transport categories falling within the scope of those Sections.

The competent authorities in each Party shall organise the checks so that:

(i) during each calendar year, a minimum of 3 % of the days worked by the drivers of vehicles falling within the scope of Section 2 of Part B applies shall be checked; and

(ii) at least 30 % of the total number of working days checked shall be checked at the roadside and at least 50 % at the premises of undertakings.

The elements of roadside checks shall include:

(i) daily and weekly driving periods, interruptions and daily and weekly rest periods;

(ii) the record sheets of the preceding days, which shall be on board the vehicle, and/or the data stored for the same period on the driver card and/or in the memory of the tachograph and/or on the printouts, when required; and

(iii) the correct functioning of the tachograph.

Those checks shall be carried out without discrimination among vehicles, undertakings and drivers whether resident or not, and regardless of the origin or destination of the journey or type of tachograph.

The elements of checks on the premises of undertakings shall include, in addition to the elements subject to roadside checks:

(i) weekly rest periods and driving periods between those rest periods;

(ii) fortnightly driving limits;

(iii) compensation for reduced weekly rest periods in accordance with Article 6(6) and (7) of Section 2 of Part B; and

(iv) use of record sheets and/or vehicle unit and driver card data and printouts and/or the organisation of drivers' working time.

2. If the findings of a roadside check on the driver of a vehicle registered in the territory of the other Party provide grounds to believe that infringements have been committed which cannot be detected during the check due to lack of necessary data, the competent authorities in each Party shall assist each other to clarify the situation. In cases where, to that end, the competent authorities in a Party carry out a check at the premises of the undertaking, the results of that check shall be communicated to the competent authorities of the other Party.

3. The competent authorities in the Parties shall work in cooperation with each other in the organisation of concerted roadside checks.

4. Each Party shall introduce a risk rating system for undertakings based on the relative number and severity of any infringements, as set out in Appendix 27-A-1-1 and of any infringements included in the list set out in Appendix 27-A-1-1bis.

5. Undertakings with a high risk rating shall be checked more closely and more often.

6. Each Party and, in the case of the Union, each Member State, shall enable its competent authorities to impose a penalty on a road haulage operator and/or a driver for an infringement of the applicable provisions on driving time, breaks and rest periods detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of the other Party or, in the case of the Union, the territory of a Member State or of a third country.

Appendix 27-B-4-1

ADAPTATIONS TO THE TECHNICAL SPECIFICATIONS OF THE ANALOGUE TACHOGRAPH

Annex I to Regulation (EU) No 165/2014 is adapted for the purpose of this Section as follows:

(a) In Section III (Construction requirements for recording equipment), in paragraph 4.1 of subsection (c) (Recording instruments), for "points (ii), (iii) and (iv) of Article 34(5)(b) of this Regulation" substitute "points (ii), (iii) and (iv) of point (b) of Article 6(5) of Section 4 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(b) In Section III (Construction requirements for recording equipment), in paragraph 4.2 of subsection (c) (Recording instruments), for "Article 34 of this Regulation" substitute "Article 6(5) of Section 4 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(c) In Section IV (Record sheets), in the third subparagraph of paragraph 1 of subsection (a) (General points), for "Article 34 of this Regulation" substitute "Article 6(6) of Section 4 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(d) In Section V (Installation of recording equipment), in the first subparagraph of paragraph 5, for "this Regulation" substitute "Section 4 of Part B and Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(e) In Section V (Installation of recording equipment), in the third subparagraph of paragraph 5, for "Part A of Annex II to Directive 2007/46/EC of the European Parliament and of the Council" substitute "the Consolidated Resolution on the Construction of Vehicles (R.E.3)" and for "this Regulation" substitute "Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(f) In Section VI (Checks and inspections), in the text before paragraph 1, after "Member States" insert "and the United Kingdom, in respect of Gibraltar";

(g) In Section VI (Checks and inspections), in the second subparagraph of paragraph 1 (Certification of new or repaired instruments), after "Member States" insert "and the United Kingdom, in respect of Gibraltar", and for "this Regulation" substitute "Section 4 of Part B and Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(h) In Section VI (Checks and inspections), in subparagraph (b) of paragraph 3 (Periodic inspections), after "Member State" insert "and the United Kingdom, in respect of Gibraltar".

Appendix 27-B-4-2

ADAPTATIONS TO THE TECHNICAL SPECIFICATIONS OF THE DIGITAL TACHOGRAPH

Annex IB to Regulation (EEC) No 3821/85, including the Appendixes introduced by Council Regulation (EC) No 2135/98[1], is adapted for the purpose of this Section as follows:

1. In the case of the United Kingdom, in respect of Gibraltar, the references to "Member State" are replaced by "Party", except for the references in subsection IV (Construction and functional requirements for tachograph cards), paragraph 174 and subsection VII (Card issuing), paragraph 268a;

2. For "Council Regulation (EEC) No 3820/85" and "Regulation (EC) No 561/2006" substitute "Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

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[1] Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/84 and (EEC) No 3821/85 (OJ EC L 274, 9.10.1998, p. 1, ELI: http://data.europa.eu/eli/reg/1998/2135/oj).

Section I (Definitions) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

3. Point (u) is replaced by the following:

"(u) 'effective circumference of the wheels' means the average of the distances travelled by each of the wheels moving the vehicle (driving wheels) in the course of one complete rotation. The measurement of those distances shall be made under standard test conditions as defined under requirement 414 and is expressed in the form 'l = … mm'. Vehicle manufacturers may replace the measurement of those distances by a theoretical calculation which takes into account the distribution of the weight on the axles, vehicle unladen in normal running order, namely with coolant fluid, lubricants, fuel, tools, spare-wheel and driver. The methods for such theoretical calculation are subject to approval by the competent authority in a Party and can take place only before tachograph activation;";

4. In point (bb), the reference to "Council Directive 92/6/EEC" is replaced by "the applicable law of each Party";

5. Point (ii) is replaced by the following:

"'security certification' means: process to certify, by a Common Criteria certification body, that the recording equipment (or component) or the tachograph card under investigation fulfils the security requirements defined in Appendix 10 (Generic security targets);";

6. In point (mm), the reference to "Directive 92/23/EEC" is replaced by "UNECE Regulation No 54";

7. In point (nn), footnote 17 is replaced by the following:

"'Vehicle Identification Number' means a fixed combination of characters assigned to each vehicle by the manufacturer, which consists of two sections: the first, composed of not more than six characters (letters or figures), identifying the general characteristics of the vehicle, in particular the type and model; the second, composed of eight characters of which the first four may be letters or figures and the other four figures only, providing, in conjunction with the first section, clear identification of a particular vehicle.";

8. In point (rr), the first indent is replaced by the following:

"– installed and used only in M1 and N1 type vehicles as defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3)".

Section II (General characteristics and functions of the recording equipment) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

9. In paragraph 004, the last subparagraph is deleted.

Section III (Construction and functional requirements for recording equipment) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

10. In paragraph 065, the reference to "Directive 2007/46/EC" is replaced by "the Consolidated Resolution on the Construction of Vehicles (R.E.3).";

11. In paragraph 162, the reference to "Commission Directive 95/54/EC of 31 October 1995 adapting to technical progress Council Directive 72/245/EEC" is replaced by "UNECE Regulation No 10".

Section IV (Construction and functional requirements for tachograph cards) of

Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

12. In paragraph 174, the reference to "UK: The United Kingdom" is replaced by "For the United Kingdom, in respect of Gibraltar, the distinguishing sign shall be GBZ.";

13. In paragraph 185, the reference to "Community territory" is replaced by "the territory of the Union and of Gibraltar";

14. In paragraph 188, the reference to "Commission Directive 95/54/EC of 31 October 1995" is replaced by "UNECE Regulation No 10";

15. In paragraph 189, the last subparagraph is deleted.

Section V (Installation of recording equipment) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

16. In paragraph 250a, the reference to "Regulation (EC) No 68/2009" is replaced by "Appendix 12 of this Annex.";

Section VI (Checks, inspections and repairs) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

17. The introductory sentence is replaced by the following:

"Requirements on the circumstances in which seals may be removed, as referred to in Article 5(5) of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, are defined in Chapter V(3) of this Annex";

18. Under subsection 1 (Approval of fitters or workshops), the reference to "Article 12(1) of this Regulation" is replaced by "Articles 5(1) and 8 of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

Section VII (Card issuing) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

19. In paragraph 268a, after "Member States", wherever it occurs, insert " and the United Kingdom, in respect of Gibraltar".

Section VIII (Type approval of recording equipment and tachograph cards) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

20. In paragraph 271, omit "in accordance with Article 5 of this Regulation".

Appendix 1 (Data dictionary) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

21. In point 2.111, the reference to "Directive 92/23 (EEC) 31.3.1992, OJ L 129, p. 95" is replaced by "UNECE Regulation No 54".

Appendix 9 (Type approval List of minimum required tests) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

22. In subpoint 5.1 of Section 2 (Vehicle unit functional tests), the reference to "Directive 95/54/EC" is replaced by "UNECE Regulation No 10";

23. In subpoint 5.1 of Section 3 (Motion sensor functional tests), the reference to "Directive 95/54/EC" is replaced by "UNECE Regulation No 10".

Appendix 12 (Adaptor for M1 and N1 category vehicles) of Annex IB to Regulation (EEC) No 3821/85 is adapted for the purpose of this Section as follows:

24. In Section 4 (Construction and functional requirements for the adaptor) in paragraph 4.5 (performance characteristics) in ADA_023, for "Commission Directive 2006/28/EC adapting to technical progress Council Directive 72/245/EEC" substitute "UNECE Regulation No 10";

25. In point 5.1 of the table under subsection 7.2 (Functional certificate), for "Directive 2006/28/EC" substitute "UNECE Regulation No 10".

Appendix 27-B-4-3

ADAPTATIONS TO THE TECHNICAL SPECIFICATIONS OF THE SMART TACHOGRAPH 1

Implementing Regulation (EU) 2016/799, including its Annexes and Appendixes, in its version until 20 August 2023, is adapted for the purpose of this Section as follows:

1. In the case of the United Kingdom, in respect of Gibraltar, the references to "Member State" are replaced by "Party", except for the references in point (229) of subsection 4.1 and in point (424) of Section 7;

2. For "Regulation (EEC) No 3820/85" and "Regulation (EC) No 561/2006" substitute "Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

3. For "Regulation (EU) No 165/2014" substitute "Section 4 of Part B and Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part", except for the references in point (402) of subsection 5.3 and in point (424) of Section 7;

4. For "Directive (EU) 2015/719" and for "Council Directive 96/53/EC" substitute "Section 1 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

Section 1 (Definitions) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

5. Point (u) is replaced by the following:

"(u) 'effective circumference of the wheels' means:

the average of the distances travelled by each of the wheels moving the vehicle (driving wheels) in the course of one complete rotation. The measurement of those distances shall be made under standard test conditions as defined under requirement 414 and is expressed in the form 'l = … mm'. Vehicle manufacturers may replace the measurement of those distances by a theoretical calculation which takes into account the distribution of the weight on the axles, vehicle unladen in normal running order, namely with coolant fluid, lubricants, fuel, tools, spare-wheel and driver. The methods for such theoretical calculation are subject to approval by the competent authority in a Party and can take place only before tachograph activation;";

6. In point (hh), the reference to "Council Directive 92/6/EEC" is replaced by "the applicable law of each Party";

7. In point (uu), the reference to "Directive 92/23/EEC" is replaced by "UNECE Regulation No 54";

8. In point (vv), footnote 9 is replaced by the following:

"'Vehicle Identification Number' means a fixed combination of characters assigned to each vehicle by the manufacturer, which consists of two sections: the first, composed of not more than six characters (letters or figures), identifying the general characteristics of the vehicle, in particular the type and model; the second, composed of eight characters of which the first four

may be letters or figures and the other four figures only, providing, in conjunction with the first section, clear identification of a particular vehicle.";

9. In point (yy), the first indent is replaced by the following:

"– installed and used only in M1 and N1 type vehicles as defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3);";

10. Point (aaa) is deleted;

11. In point (ccc), the first paragraph is replaced by "15 June 2019".

Section 2 (General characteristics and functions of the recording equipment) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

12. The last subparagraph of paragraph (7) of subsection 2.1 is deleted.

Section 3 (Construction and functional requirements for recording equipment) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

13. In point (200) of subsection 3.20, the second sentence of the third subparagraph is deleted;

14. Point (201) of subsection 3.20 is replaced by the following:

"The vehicle unit may also be able to output the following data using an appropriate dedicated serial link independent from an optional CAN bus connection (ISO 11898 Road vehicles – Interchange of digital information – Controller Area Network (CAN) for high-speed communication), to allow their processing by other electronic units installed in the vehicle:

– current UTC date and time,

– speed of the vehicle,

– total distance travelled by the vehicle (odometer),

– currently selected driver and co-driver activity,

– information if any tachograph card is currently inserted in the driver slot and in the co-driver slot and (if applicable) information about the corresponding cards identification (card number and issuing country).

Other data may also be output in addition to that minimum list.

When the ignition of the vehicle is ON, those data shall be permanently broadcast. When the ignition of the vehicle is OFF, at least any change of driver or co-driver activity and/or any insertion or withdrawal of a tachograph card shall generate a corresponding data output. In the event that data output has been withheld whilst the ignition of the vehicle is OFF, that data shall be made available once the ignition of the vehicle is ON again.

The driver consent shall be required in case personal data are transmitted.".

Section 4 (Construction and functional requirements for tachograph cards) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

15. In Point (229) of the subsection 4.1, the following subparagraph is added:

"For the United Kingdom, in respect of Gibraltar, the distinguishing sign shall be GBZ.";

16. In point (237), for "Article 26.4 of Regulation (EU) No. 165/2014" substitute "Article 9(2) of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

17. In point (241) of subsection 4.4 of Chapter 4 of this Annex, the word "Community territory" is replaced by "the territory of the Union and of Gibraltar";

18. Point (246) in subsection 4.5 is deleted.

Section 5 (Installation of recording equipment) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

19. The first paragraph of point (397) in subsection 5.2 is replaced by the following:

"(397) For M1 and N1 vehicles only, and which are fitted with an adaptor in conformity with Appendix 16 of this Annex and where it is not possible to include all the information necessary, as described in Requirement 396, a second, additional, plaque may be used. In such cases, this additional plaque shall contain at least the last four indents described in Requirement 396.";

20. In point (402) of subsection 5.3, for "Article 22(3) of Regulation (EU) No 165/2014" substitute "Article 5(3) of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.".

Section 6 (Checks, inspections and repairs) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

21. The introductory sentence is replaced by the following:

"Requirements on the circumstances in which seals may be removed are defined in Chapter 5.3 of this Annex.".

Section 7 (Card issuing) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

22. In point (424), after the reference to "Member States" insert "the United Kingdom, in respect of Gibraltar", and for the reference to "Article 31 of Regulation (EU) No 165/2014" substitute "Article 13 of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

Appendix 1 (Data dictionary) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

23. In point 2.163, for "Directive 92/23/EEC" substitute "UNECE Regulation No 54".

Appendix 11 (Common security mechanisms) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

24. In point 9.1.4 (Equipment Level: Vehicle Units), in the first note below CSM_78, for "Regulation (EU) No 581/2010" substitute "Article 7(5) of Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern

Ireland, of the other part";

25. In point 9.1.5 (Equipment Level: Tachograph Cards), in the note below CSM_89, for "Regulation (EU) No 581/2010" substitute "Article 7(5) of Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part".

Appendix 12 (Positioning based on Global Navigation Satellite System (GNSS)) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

26. The second subparagraph of Section 1 (Introduction) is deleted;

27. In Section 2 (Specification of the GNSS receiver), the reference to "compatibility with the services provided by the Galileo and European Geostationary Navigation Overlay Service (EGNOS) programmes as set out in Regulation (EU) No 1285/2013 of the European Parliament and of the Council", is replaced by "compatibility with Satellite Based Augmentation Systems (SBAS)".

Appendix 16 (Adaptor for M1 and N1 category vehicles) of Annex IC to Implementing Regulation (EU) 2016/799 is adapted for the purpose of this Section as follows:

28. In point 5.1 in the table under Section (7) (Type approval of recording equipment when an adaptor is used), the reference to "Directive 2006/28/EC" is replaced by "UNECE Regulation No 10".

Appendix 27-B-4-4

ADAPTATIONS TO THE TECHNICAL SPECIFICATIONS
FOR SMART TACHOGRAPH 2

Implementing Regulation (EU) 2016/799, including its Annexes and Appendixes, is adapted for the purposes of this Section as follows:

The following adaptations apply throughout Annex I C, including its Appendices 1 to 17:

(a) in the case of the United Kingdom, in respect of Gibraltar, the references to "Member State" or "Member States", wherever they occur, are replaced by "Party", except for the references in point (229) of subsection 4.1 and in point (424) of Section 7;

(b) for "Regulation (EC) No 561/2006" or "Regulation (EC) No 561/2006 of the European Parliament and of the Council" substitute "Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(c) for "Regulation (EU) No 165/2014" substitute "Section 4 of Part B and Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part", except for the references in points (226d), (237), (402), (424), ITS_01, MIG_025, and, in Appendix 14, in the first paragraph of section 1, in the second paragraph of section 2, in section 3 and in point DSC_26;

(d) for "Directive (EU) 2015/719" and for "Council Directive 96/53/EC" substitute "Section 1 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(e) for "Annex I B to Regulation (EEC) No 3821/85" substitute "Annex I B to Regulation (EEC) No 3821/85 as adapted by Appendix 27-B-4-2 of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

1. Section 1 (Definitions) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(f) point (u) is replaced by the following:

"(u) 'effective circumference of the wheels' means: the average of the distances travelled by each of the wheels moving the vehicle (driving wheels) in the course of one complete rotation. The measurement of those distances shall be made under standard test conditions as defined under requirement 414 and is expressed in the form 'l = … mm'. Vehicle manufacturers may replace the measurement of those distances by a theoretical calculation which takes into account the distribution of the weight on the axles, vehicle unladen in normal running order, namely with coolant fluid, lubricants, fuel, tools, spare-wheel and driver. The methods for such theoretical calculation are subject to approval by the competent authority in a Party and can take place only before tachograph activation;";

(g) in point (hh), the reference to "Council Directive 92/6/EEC, as last amended" is replaced by "the applicable law of each Party";

(h) in point (uu), the reference to "Directive 92/23/EEC, as last amended" is replaced by UNECE Regulation No 54;

(i) the footnote in point (vv) is replaced by the following:

"'Vehicle Identification Number' means a fixed combination of characters assigned to each vehicle by the manufacturer, which consists of two sections: the first, composed of not more than six characters (letters or figures), identifying the general characteristics of the vehicle, in particular the type and model; the second, composed of eight characters of which the first four may be letters or figures and the other four figures only, providing, in conjunction with the first section, clear identification of a particular vehicle.";

(j) in point (yy), the first indent is replaced by the following:

"– installed and used only in M1 and N1 type vehicles as defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3);";

(k) point (aaa) is deleted;

(l) in point (ccc), the definition of "introduction date" is replaced by "21 February 2024";

2. Section 2 (General characteristics and functions of the recording equipment) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(m) the last subparagraph of paragraph (7) of subsection 2.1 is replaced by the following:

"This is done in accordance with Article 4 of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.";

3. Section 3 (Construction and functional requirements for recording equipment) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(n) point (201) of subsection 3.20 is replaced by the following:

"The vehicle unit may also be able to output the following data using an appropriate dedicated serial link independent from an optional CAN bus connection (ISO 11898 Road vehicles – Interchange of digital information – Controller Area Network (CAN) for high-speed communication), to allow their processing by other electronic units installed in the vehicle:

– current UTC date and time,

– speed of the vehicle,

– total distance travelled by the vehicle (odometer),

– currently selected driver and co-driver activity,

– information if any tachograph card is currently inserted in the driver slot and in the co-driver slot and (if applicable) information about the corresponding cards identification (card number and issuing country).

Other data may also be output in addition to that minimum list.

When the ignition of the vehicle is ON, those data shall be permanently

broadcast. When the ignition of the vehicle is OFF, at least any change of driver or co-driver activity and/or any insertion or withdrawal of a tachograph card shall generate a corresponding data output. In the event that data output has been withheld whilst the ignition of the vehicle is OFF, that data shall be made available once the ignition of the vehicle is ON again.

The driver consent shall be required in case personal data are transmitted.";

(o) in point (226d) of section 3.28, ", in accordance with Article 12(5) of Regulation (EU) No 165/2014" is deleted;

4. Section 4 (Construction and functional requirements for tachograph cards) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(p) in point (229) of subsection 4.1, the following subparagraph is added:

"For the United Kingdom, in respect of Gibraltar, the distinguishing sign shall be GBZ.";

(q) in point (237), for "Article 26.4 of Regulation (EU) No. 165/2014" substitute "Article 9(2) of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(r) in point (241) of subsection 4.4, the word "Community territory" is replaced by "the territory of the Union and of Gibraltar";

5. Section 5 (Installation of recording equipment) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(s) The first paragraph of point (397) in subsection 5.2 is replaced by the following:

"(397) For M1 and N1 vehicles only, and which are fitted with an adaptor in conformity with Appendix 16 of this Annex and where it is not possible to include all the information necessary, as described in Requirement 396, a second, additional, plaque may be used. In such cases, this additional plaque shall contain at least the last four indents described in Requirement 396.";

(t) In point (402) of subsection 5.3, for "Article 22(3) of Regulation (EU) No 165/2014" substitute "Article 5(3) of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.";

6. Section 6 (Checks, inspections and repairs) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(u) the introductory sentence is replaced by the following: "Requirements on the circumstances in which seals may be removed are defined in Chapter 5.3 of this Annex.";

7. Section 7 (Card issuing) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(v) in point (424), after the reference to "Member States" insert "and the United Kingdom, in respect of Gibraltar", and for the reference to "Article 31 of Regulation (EU) No 165/2014" substitute "Article 13 of Section 2 of Part C of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

8. Appendix 1 (Data dictionary) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(w) in point 2.163, for "Directive 92/23 (EEC) 31/03/92 O.J. L129 p.95" substitute "UNECE Regulation No 54";

9. Appendix 11 (Common security mechanisms) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(x) in point 9.1.4 (Equipment Level: Vehicle Units), in the first note below CSM_78, for "Regulation (EU) No 581/2010" substitute "Article 7(5) of Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(y) in point 9.1.5 (Equipment level: Tachograph Cards), in the note below CSM_89, for "Regulation (EU) No 581/2010" substitute "Article 7(5) of Section 2 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

10. Appendix 12 (Positioning based on Global Navigation Satellite System (GNSS)) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(z) in Section 2 (Basic Characteristics of the GNSS Receiver), the reference to "compatibility with the services provided by the Galileo and European Geostationary Navigation Overlay Service (EGNOS) programmes as set out in Regulation (EU) No 1285/2013 of the European Parliament and of the Council", is replaced by "compatibility with Satellite Based Augmentation

Systems (SBAS)";

11. Appendix 13 (ITS Interface) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(aa) in requirement ITS_01, the terms ", requested in Articles 10 and 11 of Regulation (EU) No 165/2014" are deleted;

12. Appendix 14 (Remote Communication Function) of Annex IC to Implementing Regulation (EU) 2016/799 is further adapted as follows:

– In the introductory paragraph of Section 1, omit "as required in Article 9 of Regulation (EU) No 165/2014";

– In the second paragraph of section 2, omit "as defined in Article 9 of Regulation (EU) No 165/2014";

– In point DSC_26, omit "in accordance with Article 9 of Regulation (EU) No 165/2014";

13. Appendix 15 (Migration: Managing the co-existence of equipment generations and versions) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(bb) in subsection 2.2, "Annex I C of this Regulation" is replaced by "Annex I C of this Regulation as adapted by Appendix 27-B-4-4 of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

(cc) in requirement MIG_025 in subsection 5, "Article 34(7) of Regulation (EU) No 165/2014" is replaced by "Article 6(7) of Section 4 of Part B of Annex 27 to the Agreement in respect of Gibraltar between the European Union and the

European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part";

14. Appendix 16 (Adaptor for M1 and N1 category vehicles) of Annex I C to Implementing Regulation (EU) 2016/799 is further adapted as follows:

(dd) in point 5.1 in the table under Section (7) (Type approval of recording equipment when an adaptor is used), the reference to "Directive 2006/28/EC" is replaced by "UNECE Regulation No 10".

PART C

REQUIREMENTS FOR VEHICLES USED FOR THE TRANSPORT OF GOODS IN ACCORDANCE WITH ARTICLE 281 OF THIS AGREEMENT

SECTION 1

WEIGHTS AND DIMENSIONS

ARTICLE 1

Subject matter and principles

The maximum weights and dimensions of the vehicles that may be used for journeys referred to in Article 276(1) and Article 277 of this Agreement are those set out in Appendix 27-C-1-1.

ARTICLE 2

Definitions

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

(a) "motor vehicle" means any power-driven vehicle which travels on the road by its own means;

(b) "trailer" means any vehicle intended to be coupled to a motor vehicle excluding semitrailers, and constructed and equipped for the carriage of goods;

(c) "semi-trailer" means any vehicle intended to be coupled to a motor vehicle in such a way that part of it rests on the motor vehicle with a substantial part of its weight and of the weight of its load being borne by the motor vehicle, and constructed and equipped for the carriage of goods;

(d) "vehicle combination" means either:

– a road train consisting of a motor vehicle coupled to a trailer; or

– an articulated vehicle consisting of a motor vehicle coupled to a semi-trailer;

(e) "conditioned vehicle" means any vehicle whose fixed or movable superstructures are specially equipped for the carriage of goods at controlled temperatures and whose side walls, inclusive of insulation, are each at least 45 mm thick;

(f) "maximum authorised dimensions" means the maximum dimensions for use of a vehicle;

(g) "maximum authorised weight" means the maximum weight for use of a laden vehicle;

(h) "maximum authorised axle weight" means the maximum weight for use of a laden axle or group of axles;

(i) "tonne" means the weight executed by the mass of a tonne and shall correspond to 9,8 kilonewtons (kN);

(j) "indivisible load" means a load that cannot, for the purpose of carriage by road, be divided into two or more loads without undue expense or risk of damage and which owing to its dimensions or mass cannot be carried by a

motor vehicle, trailer, road train or articulated vehicle complying with this Section in all respects;

(k) "alternative fuels" means fuels or power sources which serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport and which have the potential to contribute to its decarbonisation and enhance the environmental performance of the transport sector, consisting of:

(i) electricity consumed in all types of electric vehicles;

(ii) hydrogen;

(iii) natural gas, including biomethane, in gaseous form (Compressed Natural Gas – CNG) and liquefied form (Liquefied Natural Gas – LNG);

(iv) Liquefied Petroleum Gas (LPG); or

(v) mechanical energy from on-board storage/on-board sources, including waste heat,

(l) "alternatively fuelled vehicle" means a motor vehicle powered wholly or in part by an alternative fuel;

(m) "zero-emission vehicle" means a heavy goods vehicle without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO_2/kWh; and

(n) "intermodal transport operation" means the transport of one or more containers or swap bodies, with a length of no more than 45 feet, where the lorry, trailer, semi-trailer (with or without tractor unit), swap body or container uses the road on the initial and/or final leg of the journey and, on the other leg, rail or inland waterway or maritime services.

ARTICLE 3

Special permits

A vehicle or vehicle combination which exceeds the maximum weights or dimensions set out in Appendix 27-C-1-1 may only be allowed to circulate on the basis of a special permit issued without discrimination by the competent authorities, or on the basis of similar non-discriminatory arrangements agreed on a case-by-case basis with those authorities, where these vehicles or vehicle combinations carry or are intended to carry indivisible loads.

ARTICLE 4

Local restrictions

This Section shall not preclude the non-discriminatory application of road traffic provisions in force in each Party which permit the weight and/or dimensions of vehicles on certain roads or civil engineering structures to be limited.

This includes the possibility to impose local restrictions on maximum authorised dimensions and/or weights of vehicles that may be used in specified areas or on specified roads, where the infrastructure is not suitable for long and heavy vehicles, such as city centres, small villages or places of special natural interest.

ARTICLE 5

Aerodynamic devices attached to the rear of vehicles or vehicle combinations

1. Vehicles or vehicle combinations equipped with aerodynamic devices may exceed the maximum lengths provided for in point 1.1 of Appendix 27-C-1-1, to allow the addition of such devices to the rear of vehicles or vehicle combinations.

Vehicles or vehicle combinations equipped with such devices shall comply with point 1.5 of Appendix 27-C-1-1, and any exceeding of the maximum lengths shall not result in an increase in the loading length of those vehicles or vehicle combinations.

2. The aerodynamic devices referred to in paragraph 1 shall fulfil the following operational conditions:

(a) in circumstances where the safety of other road users or of the driver is at risk, they shall be folded, retracted or removed by the driver;

(b) when aerodynamic devices and equipment exceed 500 mm in length in the in-use position they shall be retractable or foldable;

(c) their use on urban and inter urban road infrastructures shall take into account the special characteristics of areas where the speed limit is less than or equal to 50 km/h and where vulnerable road users are more likely to be present; and

(d) when retracted/folded, they shall not exceed the maximum authorised length by more than 20 cm.

ARTICLE 6

Aerodynamic cabins

Vehicles or vehicle combinations may exceed the maximum lengths laid down in point 1.1 of Appendix 27-C-1-1 provided that their cabs deliver improved aerodynamic performance, energy efficiency and safety performance. Vehicles or vehicle combinations equipped with such cabs shall comply with point 1.5 of Appendix 27-C-1-1 and any exceeding of the maximum lengths shall not result in an increase in the load capacity of those vehicles.

ARTICLE 7

Intermodal transport operations

1. The maximum lengths laid down in point 1.1 of Appendix 27-C-1-1, subject where applicable to Article 6, and the maximum distance laid down in point 1.6 of Appendix 27-C-1-1, may be exceeded by 15 cm for vehicles or vehicle combinations engaged in the transport of 45-foot containers or 45-foot swap bodies, empty or loaded, provided that the road transport of the container or swap body in question is part of an intermodal transport operation carried out according to the conditions set by each Party.

2. For intermodal transport operations, the maximum authorised vehicle weight for articulate vehicles with five or six axles may be exceeded by two tonnes in the combination set out in point 2.2.2(a) of Appendix 27-C-1-1 and by four tonnes in the combination set out in point 2.2.2(b) of Appendix 27-C-1-1. The maximum authorised vehicle weight of these vehicles may not exceed 44 tonnes.

ARTICLE 8

Proof of compliance

1. As proof of compliance with this Section, vehicles covered by it shall carry one of the following proofs:

(a) a combination of the following two plates:

- the manufacturer's statutory plate, which is a plate or label, affixed by the manufacturer on a vehicle that provides the main technical characteristics which are necessary for the identification of the vehicle and provides the competent authorities with the relevant information concerning the permissible maximum laden masses; and

– a plate relating to dimensions as far as possible affixed next to the manufacturer's statutory plate and containing the following information:

(i) name of the manufacturer;

(ii) vehicle identification number;

(iii) length of the motor vehicle, trailer or semi-trailer (L);

(iv) width of the motor vehicle, trailer or semi-trailer (W); and

(v) data for the measurement of the length of vehicle combinations:

– the distance (a) between the front of the motor vehicle and the centre of the coupling device (coupling hook or fifth wheel); in the case of a fifth wheel with several coupling points, the minimum and maximum values must be given (a_{min} and a_{max});

– the distance (b) between the centre of the coupling device of the trailer (fifth wheel ring) or of the semi-trailer (king pin) and the rear of the trailer or of the semi-trailer; in the case of a device with several coupling points, the minimum and maximum values must be given (b_{min} and b_{max});

The length of vehicle combinations is the length of the motor vehicle and trailer or semi-trailer placed in a straight line behind each other;

(b) a single plate containing the information on the two plates referred to in

point (a); or

(c) a single document issued by the competent authorities of a Party or, in the case of the Union, the Member State where the vehicle is registered or put into circulation containing the same information as the plates referred to in point (a). It shall be kept in a place easily accessible to inspection and shall be adequately protected.

2. If the characteristics of the vehicle no longer correspond to those indicated on the proof of compliance, the Party or, in the case of the Union, the Member State in which the vehicle is registered or put into circulation shall take the necessary steps to ensure that the proof of compliance is altered.

3. The plates and documents referred to in paragraph 1 shall be recognised by the Parties as the proof of vehicle compliance provided for in this Section.

ARTICLE 9

Enforcement

1. Each Party shall take specific measures to identify vehicles or vehicle combinations in circulation that are likely to have exceeded the maximum authorised weight and that shall therefore be checked by the competent authorities of the Parties in order to ensure compliance with the requirements of this Section. This can be done with the aid of automatic systems set up on the road infrastructure, or by means of on-board weighing equipment installed in vehicles. Such on-board weighing equipment shall be accurate and reliable, fully interoperable and compatible with all vehicle types.

2. A Party shall not require on-board weighing equipment to be installed on vehicles or vehicle combinations which are registered in the other Party.

3. Where automatic systems are used to establish infringements of this Section and to impose penalties, such automatic systems shall be certified. Where automatic systems are used only for identification purposes, they need not be certified.

4. The Parties shall, in accordance with Article 14 of Part A, ensure that their competent authorities exchange information about infringements and penalties relating to this Article.

Appendix 27-C-1-1

MAXIMUM WEIGHTS AND DIMENSIONS
AND RELATED CHARACTERISTICS OF VEHICLES

1. Maximum authorised dimensions for vehicles (in metre; "m")

1.1 Maximum length:

–	motor vehicle	12,00 m
–	trailer	12,00 m
–	articulated vehicle	16,50 m
–	road train	18,75 m

1.2 Maximum width:

(a)	all vehicles except the vehicles referred to in point (b)	2,55 m
(b)	superstructures of conditioned vehicles or conditioned containers or swap bodies transported by vehicles	2,60 m

1.3. Maximum height (any vehicle) 4,00 m

1.4. Removable superstructures and standardised freight items such as containers are included in the dimensions specified in points 1.1, 1.2, 1.3, 1.6, 1.7, 1.8 and 4.4

1.5. Any motor vehicle or vehicle combination which is in motion must be able to

turn within a swept circle having an outer radius of 12,50 m and an inner radius of 5,30 m

1.6. Maximum distance between the axis of the fifth-wheel king pin and the rear of a semi-trailer 12,00 m

1.7. Maximum distance measured parallel to the longitudinal axis of the road train from the foremost external point of the loading area behind the cabin to the rearmost external point of the trailer of the combination, minus the distance between the rear of the drawing vehicle and the front of the trailer 15,65 m

1.8. Maximum distance measured parallel to the longitudinal axis of the road train from the foremost external point of the loading area behind the cabin to the rearmost external point of the trailer of the combination 16,40 m

2. Maximum authorised vehicle weight (in tonnes)

2.1 Vehicles forming part of a vehicle combination

2.1.1 Two-axle trailer 18 tonnes

2.1.2 Three-axle trailer 24 tonnes

2.2 Vehicle combinations

In the case of vehicle combinations including alternatively fuelled or zero-emission vehicles, the maximum authorised weights provided for in this Section are increased by the additional weight of the alternative fuel or zero-emission technology with a maximum of 1 tonne and 2 tonnes respectively.

2.2.1 Road trains with five or six axles

(a) two-axle motor vehicle with three-axle trailer 40 tonnes

(b) three-axle motor vehicle with two or three-axle trailer 40 tonnes

2.2.2 Articulated vehicles with five or six axles

(a) two-axle motor vehicle with three-axle semi-trailer 40 tonnes

(b) three-axle motor vehicle with two or three-axle semi-trailer 40 tonnes

2.2.3. Road trains with four axles consisting of a two-axle motor vehicle and a two-axle trailer 36 tonnes

2.2.4. Articulated vehicles with four axles consisting of a two-axle motor vehicle and a two-axle semi-trailer, if the distance between the axles of the semi-trailer:

– is 1,3 m or greater but not more than 1,8 m 36 tonnes

– is greater than 1,8 m 36 tonnes

(+ 2 tonnes margin when the maximum authorised weight ("MAW") of the motor vehicle (18 tonnes) and the MAW of the tandem axle of the semi-trailer (20 tonnes) are respected and the driving axle is fitted with twin tyres and air suspension or equivalent suspension)

2.3 Motor vehicles

In the case of alternatively fuelled motor vehicles or zero-emission vehicles, the maximum authorised weights provided for in subsections 2.3.1 and 2.3.2 are increased by the additional weight of the alternative fuel or zero-emission technology with a maximum of 1 tonne and 2 tonnes respectively.

2.3.1. Two-axle motor vehicles 18 tonnes

2.3.2. Three-axle motor vehicles 25 tonnes (26 tonnes where the driving axle is fitted with twin tyres and air suspension or equivalent suspension, or where each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9,5 tonnes)

2.3.3. Four-axle motor vehicles with two steering axles 32 tonnes where the driving axle is fitted with twin tyres and air suspension or equivalent suspension, or where each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9,5 tonnes

3. Maximum authorised axle weight of the vehicles (in tonnes)

3.1. Single axles

Single non-driving axle 10 tonnes

3.2. Tandem axles of trailers and semi-trailers.

The sum of the axle weights per tandem axle must not exceed, if the distance (d) between the axles is:

– less than 1 m ($d < 1,0$) 11 tonnes

– between 1,0 m and less than 1,3 m ($1,0 \leq d < 1,3$) 16 tonnes

– between 1,3 m and less than 1,8 m ($1,3 \leq d < 1,8$) 18 tonnes

– 1,8 m or more ($1,8 \leq d$) 20 tonnes

3.3. Tri-axles of trailers and semi-trailers

The sum of the axle weights per tri-axle must not exceed, if the distance (d) between the axles is:

1,3 m or less ($d \leq 1,3$)	21 tonnes
over 1,3 m and up to 1,4 m ($1,3 < d \leq 1,4$)	24 tonnes

3.4. Driving axle

Driving axle of the vehicles referred to in points 2.2 and 2.3	11,5 tonnes

3.5. Tandem axles of motor vehicles

The sum of the axle weights per tandem axle must not exceed, if the distance (d) between the axles is:

– less than 1 m ($d < 1,0$)	11,5 tonnes
– 1,0 m or greater but less than 1,3 m ($1,0 \leq d < 1,3$)	16 tonnes
– 1,3 m or greater but less than 1,8 m ($1,3 \leq d < 1,8$) (19 tonnes where the driving axle is fitted with twin tyres and air suspension or equivalent suspension, or where each driving axle is fitted with twin tyres and where the maximum weight for each axle does not exceed 9,5 tonnes)	18 tonnes

4. Other characteristics of the vehicles

4.1 All vehicles

The weight borne by the driving axle or driving axles of a vehicle or vehicle combination must not be less than 25 % of the total laden weight of the vehicle or vehicle combination.

4.2. Road trains

The distance between the rear axle of a motor vehicle and the front axle of a trailer must not be less than 3,00 m.

4.3. Maximum authorised weight depending on the wheelbase

The maximum authorised weight in tonnes of a four-axle motor vehicle may not exceed five times the distance in metres between the axes of the foremost and rearmost axles of the vehicle.

4.4. Semi-trailers

The distance measured horizontally between the axis of the fifth-wheel king pin and any point at the front of the semi-trailer must not exceed 2,04 m.

SECTION 2

REQUIREMENTS FOR TACHOGRAPHS, DRIVERS' CARDS AND WORKSHOP CARDS

ARTICLE 1

Subject-matter and principles

This Section lays down the requirements for vehicles within the scope of Section 2 of Part B of this Annex regarding the installation, testing, and control of tachographs, as referred to in Article 281(2) of this Agreement.

ARTICLE 2

Definitions

1. For the purposes of this Section, the definitions set out in Article 2 of Section 2 and in Article 2 of Section 4 of Part B of this Annex apply.

2. In addition to the definitions referred to in paragraph 1, for the purposes of this Section the following definitions apply:

(a) "vehicle unit" means the tachograph excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Section; the vehicle unit includes, among other things, a processing unit, a data memory, a time measurement function, two smart card interface devices for driver and co-driver, a printer, a display, connectors and facilities for entering the user's inputs;

(b) "motion sensor" means a part of the tachograph providing a signal representative of vehicle speed and/or distance travelled;

(c) "control card" means a tachograph card issued by the authorities of a Party to a national competent control authority which identifies the control body and, optionally, the control officer, and which allows access to the data stored in the data memory or in the driver cards and, optionally, in the workshop cards for reading, printing and/or downloading;

(d) "workshop card" means a tachograph card issued by the authorities of a Party to designated staff of a tachograph manufacturer, a fitter, a vehicle manufacturer or a workshop, approved by that Party, which identifies the cardholder and allows for the testing, calibration and activation of tachographs, and/or downloading from them;

(e) "activation" means the phase in which the tachograph becomes fully operational and implements all functions, including security functions, through the use of a workshop card;

(f) "calibration" means, with regard to the digital tachograph, updating or confirming vehicle parameters, including vehicle identification and vehicle characteristics, to be held in the data memory through the use of a workshop card;

(g) "downloading" from a digital or smart tachograph means the copying, together with the digital signature, of a part, or of a complete set, of data files recorded in the data memory of the vehicle unit or in the memory of a tachograph card, provided that this process does not alter or delete any stored data;

(h) "fault" means an abnormal operation detected by the digital tachograph which may result from an equipment malfunction or failure;

(i) "installation" means the mounting of a tachograph in a vehicle;

(j) "periodic inspection" means a set of operations performed to check that the tachograph works properly, that its settings correspond to the vehicle parameters, and that no manipulation devices are attached to the tachograph;

(k) "repair" means any repair of a motion sensor or of a vehicle unit that requires the disconnection of its power supply, or its disconnection from other tachograph components, or the opening of the motion sensor or vehicle unit;

(l) "interoperability" means the capacity of systems and the underlying business processes to exchange data and to share information;

(m) "interface" means a facility between systems which provides the media through which they can connect and interact;

(n) "time measurement" means a permanent digital record of the coordinated universal date and time (UTC); and

(o) "TACHOnet messaging system" means the messaging system complying with the technical specifications laid down in Annexes I to VII of Commission Implementing Regulation (EU) 2016/68[1].

ARTICLE 3

Installation

1. Tachographs as referred to in paragraph 2 shall be installed in vehicles:

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[1] Commission Implementing Regulation (EU) 2016/68 of 21 January 2016 on common procedures and specifications necessary for the interconnection of electronic registers of driver cards (OJ EU L 15, 22.1.2016, p. 51, ELI: http://data.europa.eu/eli/reg_impl/2016/68/oj).

(a) where the maximum permissible mass of the vehicle, including any trailer, or semitrailer, exceeds 3,5 tonnes; or

(b) from 1 July 2026, where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 2,5 tonnes.

2. The tachographs are:

(a) for vehicles put into service for the first time before 1 May 2006, an analogue tachograph;

(b) for vehicles put into service for the first time between 1 May 2006 and 30 September 2011, the first version of the digital tachograph;

(c) for vehicles put into service for the first time between 1 October 2011 and 30 September 2012, the second version of the digital tachograph;

(d) for vehicles put into service for the first time between 1 October 2012 and 14 June 2019, the third version of the digital tachograph;

(e) for vehicles registered for the first time from 15 June 2019 and until two years after the entry into force of the detailed specifications referred to in Article 2(2)(h) of Section 4 of Part B, a smart tachograph 1; and

(f) for vehicles registered for the first time more than two years after the entry into force of the detailed specifications referred to in Article 2(2)(h) of Section 4 of Part B, a smart tachograph 2.

3. Each Party may exempt from the application of this Section the vehicles mentioned in Article 8(3) of Section 2 of Part B of this Annex.

4. Each Party may exempt from the application of this Section vehicles used for transport operations which have been granted an exception in accordance with Article 8(4) of Section 2 of Part B of this Annex. Each Party shall immediately notify each other when making use of this paragraph.

5. No later than three years from the end of the year of entry into force of the detailed technical specifications of the smart tachograph 2, vehicles mentioned in point (a) of paragraph 1 which are equipped with an analogue tachograph or a digital tachograph shall be fitted with a smart tachograph 2 when operating on the territory of a Party other than the one where they are registered.

6. No later than four years after the entry into force of the detailed technical specifications of the smart tachograph 2, vehicles mentioned in point (a) of paragraph 1 equipped with a smart tachograph 1, shall be equipped with a smart tachograph 2 when operating on the territory of a Party other than the one where they are registered.

7. From 1 July 2026, vehicles mentioned in point (b) of paragraph 1 shall be equipped with a smart tachograph 2 when operating on the territory of a Party other than the one where they are registered.

8. Nothing in this Section shall affect the application on the Union territory of the Union rules on recording equipment in road transport to Union road haulage operators.

ARTICLE 4

Data protection

1. Each Party shall ensure that the processing of personal data in the context of this Section is carried out solely for the purpose of verifying compliance with this Section.

2. Each Party shall, in particular, ensure that personal data are protected against uses other than the one strictly referred to in paragraph 1 in relation to:

(a) the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in the technical specification for smart tachograph 1 and smart tachograph 2;

(b) the electronic exchange of information on driver cards as referred to in Article 13, and in particular any cross-border exchanges of such data with third parties; and

(c) the keeping of records by road haulage operators as referred to in Article 15.

3. Digital tachographs shall be designed in such a way as to ensure privacy. Only data necessary for the purposes referred to in paragraph 1 shall be processed.

4. Owners of vehicles, road haulage operators and any other entity concerned shall comply with the relevant provisions on the protection of personal data.

ARTICLE 5

Installation and repair

1. Tachographs may be installed or repaired only by fitters, workshops or vehicle manufacturers approved by the competent authorities in a Party for that purpose in accordance with Article 7.

2. Approved fitters, workshops or vehicle manufacturers shall seal the tachograph after having verified that it is functioning properly, and, in particular, in such a way as to ensure that no manipulation device can tamper with or alter the data recorded.

3. The approved fitter, workshop or vehicle manufacturer shall place a special mark on the seals which it affixes and, in addition, for digital, smart 1 and smart 2 tachographs, shall enter the electronic security data for carrying out authentication checks. Each Party shall keep and publish a register of the marks and electronic security data used and the necessary information related to the electronic security data used.

4. For the purpose of certifying that the installation of the tachograph took place in accordance with the requirements of this Section, an installation plaque shall be affixed in such a way as to be clearly visible and easily accessible.

5. Tachograph components shall be sealed. Any connections to the tachograph which are potentially vulnerable to tampering, including the connection between the motion sensor and the gearbox, and the installation plaque where relevant, shall be sealed.

A seal shall be removed or broken only:

– by fitters or workshops approved by the competent authorities under Article 7 for repair, maintenance or recalibration purposes of the tachograph, or by control officers properly trained and, where required authorised, for control purposes; or

– for the purpose of vehicle repair or modification which affects the seal. In such cases, a written statement stating the date and time at which the seal was broken and giving the reasons for the seal removal shall be kept on board the vehicle.

The removed or broken seals shall be replaced by an approved fitter or a workshop without undue delay and at the latest within seven days of their removal or breaking. When the seals have been removed or broken for control purposes, they may be replaced by a control officer equipped with sealing equipment and a unique special mark without undue delay.

When a control officer removes a seal, the control card shall be inserted in the tachograph from the moment of the removal of the seal until the inspection is finished, including in the case of the placement of a new seal. The control officer shall issue a written statement containing at least the following information:

– vehicle identification number;

– name of the officer;

– control authority and country;

– number of the control card;

– number of the removed seal;

– date and time of seal removal; and

– number of the new seal, where the control officer has placed a new seal.

Before replacing the seals, a check and calibration of the tachograph shall be performed by an approved workshop, except where a seal has been removed or broken for control purposes and replaced by a control officer.

ARTICLE 6

Inspections of tachographs

1. Tachographs shall be subject to regular inspection by approved workshops. Regular inspections shall be carried out at least every two years.

2. The inspections referred to in paragraph 1 shall check at least the following:

– the tachograph is correctly fitted and appropriate for the vehicle;

– the tachograph is working properly;

– the tachograph carries the type-approval mark;

– the installation plaque is affixed;

– all seals are intact and effective;

– there are no manipulation devices attached to the tachograph or traces of the use of such devices; and

– the tyre size and the actual circumference of the tyres.

3. Workshops shall draw up an inspection report in cases where irregularities in the functioning of the tachograph had to be remedied, whether as a result of a periodic inspection or of an inspection carried out at the specific request of the national competent authority. They shall keep a list of all inspection reports drawn up.

4. Inspection reports shall be retained for a minimum period of two years from the time the report was made. Each Party shall decide whether inspection reports are to be retained or sent to the competent authority during that period. In cases where the inspection reports are kept by the workshop, upon request from the competent authority, the workshop shall make available the reports of inspections and calibrations carried out during that period.

ARTICLE 7

Approval of fitters, workshops and vehicle manufacturers

1. Each Party or, in the case of the Union, each Member State shall approve, regularly control and certify the fitters, workshops and vehicle manufacturers which may carry out installations, checks, inspections and repairs of tachographs.

2. Each Party or, in the case of the Union, each Member State shall ensure that fitters, workshops and vehicle manufacturers are competent and reliable. For that purpose, they shall establish and publish a set of clear national procedures and shall ensure that the following minimum criteria are met:

(a) the staff are properly trained;

(b) the equipment necessary to carry out the relevant tests and tasks is available; and

(c) the fitters, workshops and vehicle manufacturers are of good repute.

3. Audits of approved fitters or workshops shall be carried out as follows:

(a) approved fitters or workshops shall be subject, at least every two years, to an audit of the procedures they apply when handling tachographs. The audit shall focus in particular on the security measures taken and the handling of workshop cards. Parties or, in the case of the Union, Member States may carry out these audits without conducting a site visit; and

(b) unannounced technical audits of approved fitters or workshops shall also take place in order to check the calibrations, inspections and installations carried out. Those audits shall cover at least 10 % of the approved fitters and workshops annually.

4. Each Party and their competent authorities shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road haulage operators. In particular, where there is a serious risk of a conflict of interests, additional specific measures shall be taken to ensure that the fitter or workshop complies with this Section.

5. The competent authorities of each Party shall withdraw approvals, either temporarily or permanently, from fitters, workshops and vehicle manufacturers which fail to meet their obligations under this Section.

ARTICLE 8

Workshop cards

1. The period of validity of workshop cards shall not exceed one year. When renewing the workshop card, the competent authority shall ensure that the criteria listed in Article 7(2) are met by the fitter, workshop or vehicle manufacturer.

2. The competent authority shall renew a workshop card within 15 working days after receipt of a valid renewal request and all the necessary documentation. If a workshop card is damaged, malfunctions, or is lost or stolen, the competent authority shall supply a replacement card within five working days of receiving a detailed request to that effect. Competent authorities shall maintain a register of lost, stolen or defective cards.

3. If a Party or, in the case of the Union, a Member State withdraws the approval of a fitter, workshop or vehicle manufacturer as provided for in Article 7, it shall also withdraw the workshop cards issued thereto.

4. Each Party shall take all necessary measures to prevent the workshop cards distributed to approved fitters, workshops and vehicle manufacturers from being

falsified.

ARTICLE 9

Issuing of driver cards

1. Driver cards shall be issued, at the request of the driver, by the competent authority in a Party where the driver has his normal residence. Where the competent authorities in a Party issuing the driver card have doubts as to the validity of a statement as to normal residence, or for the purpose of certain specific controls, they may request any additional information or evidence from the driver.

For the purposes of this Article, "normal residence" means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a place different from their personal ties and who consequently lives in turn in different places situated in the two Parties shall be regarded as being the place of their personal ties, provided that such person returns there regularly. This last condition need not be complied with where the person is living in a Party in order to carry out a fixed-term assignment.

2. In duly justified and exceptional cases, each Party or, in the case of the Union, a Member State may issue a temporary and non-renewable driver card valid for a maximum period of 185 days to a driver who does not have his normal residence in a Party, provided that such driver is in a labour law relationship with an undertaking established in the issuing Party and, in so far, presents a driver attestation when required.

3. The competent authorities of the issuing Party shall take appropriate measures to ensure that an applicant does not already hold a valid driver card and shall personalise the driver card, ensuring that its data are visible and secure.

4. The driver card shall not be valid for more than five years.

5. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Party find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Party or, in the case of the Union, a Member State other than the issuing Party or, in the case of the Union, other than the issuing Member State, the former shall return the card to the authorities of the Party or, in the case of the Union, the authorities of the Member State which issued it, as soon as possible, indicating the reasons for the withdrawal or suspension. If the return of the card is expected to take longer than two weeks, the suspending or withdrawing Party or, in the case of the Union, the suspending or withdrawing Member State shall inform the issuing Party or, in the case of the Union, the issuing Member State within those two weeks of the reasons for suspension or withdrawal.

6. The competent authority of the issuing Party may require a driver to replace the driver card by a new one if this is necessary to comply with the relevant technical specifications.

7. Each Party shall take all necessary measures to prevent driver cards from being falsified.

8. This Article shall not prevent a Party or, in the case of the Union, a Member State from issuing a driver card to a driver who has his normal residence in a part of that Party's territory, to which this Annex does not apply, provided that the relevant provisions of this Section are applied in such cases.

ARTICLE 10

Renewal of driver cards

1. Where, in the case of renewals, the Party of the driver's normal residence is different from that which issued his current card, and where the authorities of the former Party are requested to renew the driver card, they shall inform the authorities which issued the earlier card of the reasons for its renewal.

2. In the event of a request for the renewal of a card which is imminently about to expire, the competent authority shall supply a new card before the expiry date, provided that the request was sent within the time-limits laid down in Article 5 of Section 4 of Part B.

ARTICLE 11

Stolen, lost or defective driver cards

1. Issuing authorities shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of validity.

2. If the driver card is damaged, malfunctions or is lost or stolen, the competent authorities in the Party of his normal residence shall supply a replacement card within eight working days after their receipt of a detailed request to that effect.

ARTICLE 12

Mutual acceptance of driver cards

1. Each Party shall accept the driver cards issued by the other Party.

2. Where the holder of a valid driver card issued by a Party has established his normal residence in the other Party and has asked for his card to be exchanged for an equivalent driver card, it shall be the responsibility of the Party or, in the case of the Union, the Member State which carries out the exchange to verify whether the card produced is still valid.

3. Parties or, in the case of the Union, Member States carrying out an exchange shall return the old card to the authorities of the issuing Party or, in the case of the Union, the issuing Member State and indicate the reasons for so doing.

4. Where a Party or, in the case of the Union, a Member State replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement or exchange, shall be registered in that Party or, in the case of the Union, in that Member State.

ARTICLE 13

Electronic exchange of information on driver cards

1. In order to ensure that an applicant does not already hold a valid driver card, Parties or, in the case of the Union, Member States shall maintain national electronic registers containing the following information on driver cards for a period at least equivalent to the period of validity of those cards:

– surname and first name of the driver;

– birth date and, if available, place of birth of the driver;

– valid driving licence number and country of issue of the driving licence (if applicable);

– status of the driver card; and

– driver card number.

2. The electronic registers of the Parties or, in the case of the Union, the Member States shall be interconnected and accessible throughout the territory of the Parties, using the TACHOnet messaging system or a compatible system. In the case of the use of a compatible system, the exchange of electronic data with the other Party shall be possible through the TACHOnet messaging system.

3. When issuing, replacing and, where necessary, renewing a driver card, Parties or, in the case of the Union, Member States shall verify through electronic data exchange that the driver does not already hold another valid driver card. The data exchanged shall be limited to the data necessary for the purpose of this verification.

4. Control officers may have access to the electronic register in order to check the status of a driver card.

ARTICLE 14

Settings of tachographs

1. Digital tachographs shall not be set in such a way that they automatically switch to a specific category of activity when the vehicle's engine or ignition is switched off, unless the driver remains able to choose manually the appropriate category of activity.

2. Vehicles shall not be fitted with more than one tachograph, except for the purposes of field tests.

3. Each Party shall forbid the production, distribution, advertising and/or selling of devices constructed and/or intended for the manipulation of tachographs.

ARTICLE 15

Responsibility of road haulage operators

1. Road haulage operators shall be responsible for ensuring that their drivers are properly trained and instructed as regards the correct functioning of tachographs, whether digital, smart or analogue, shall make regular checks to ensure that their drivers make correct use thereof, and shall not give to their drivers any direct or indirect incentives that could encourage the misuse of tachographs.

Road haulage operators shall issue a sufficient number of record sheets to drivers of vehicles fitted with analogue tachographs, taking into account the fact that record sheets are personal in character, the length of the period of service and the possible need to replace record sheets which are damaged or have been taken by an authorised control officer. Road haulage operators shall issue to drivers only record sheets of an approved model suitable for use in the equipment installed in the vehicle.

The road haulage operator shall ensure that, taking into account the length of the period of service, the printing of data from the tachograph at the request of a control officer can be carried out correctly in the event of an inspection.

2. Road haulage operators shall keep record sheets and printouts, whenever printouts have been made to comply with Article 9 of Section 4 of Part B of this Annex, in chronological order and in a legible form, for at least a year after their use, and shall give copies to the drivers concerned who request them. Road haulage operators shall also give copies of data downloaded from driver cards to the drivers concerned who request them, together with printed paper versions of those copies. Record sheets, printouts and downloaded data shall be produced or handed over at the request of any authorised control officer.

3. Road haulage operators shall be liable for infringements of this Section and of Section 4 of Part B of this Annex committed by their drivers or by drivers at their disposal. However, each Party may make such liability conditional on the road haulage operator's infringement of the first subparagraph of paragraph 1 of this Article and Article 7(1) and (2) of Section 2 of Part B of this Annex.

ARTICLE 16

Procedures for road haulage operators in the event of malfunctioning equipment

1. In the event of the breakdown or faulty operation of a tachograph, the road haulage operator shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

2. If the vehicle is unable to return to the road haulage operator's premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out en route.

3. Each Party or, in the case of the Union, the Member States shall give the competent authorities power to prohibit the use of the vehicle in cases where the breakdown or faulty operation has not been remedied as provided in paragraphs 1 and 2 in so far as this is in accordance with the national legislation in the Party concerned.

ARTICLE 17

Procedure for the issuing of tachograph cards

The European Commission shall provide to the competent authorities of the United Kingdom, in respect of Gibraltar, the cryptographic material for the issuing of tachograph cards for drivers, workshops and control authorities, in accordance with the European Root Certification Authority (ERCA) certificate policy and the

certificate policy of the United Kingdom, in respect of Gibraltar.

ANNEX 28

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

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

(a) maximum work periods and minimum rest periods;

(b) minimum paid annual leave;

(c) remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;

(d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;

(e) health, safety and hygiene at work;

(f) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people;

(g) equality of treatment between men and women and other provisions on non-discrimination;

(h) the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work;

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

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

ANNEX 29

RULES OF PROCEDURE FOR DISPUTE SETTLEMENT

I. Definitions

1. For the purposes of Part Six of this Agreement and of these Rules of Procedure, the following definitions apply:

(a) "administrative staff", in respect of an arbitrator, means individuals under the direction and control of an arbitrator, other than assistants;

(b) "adviser" means an individual retained by a Party to advise or assist that Party in connection with the arbitration proceedings;

(c) "arbitration tribunal" means a tribunal established under Article 306 of this Agreement;

(d) "arbitrator" means a member of the arbitration tribunal;

(e) "assistant" means an individual who, under the terms of appointment and under the direction and control of an arbitrator, conducts research or provides assistance to that arbitrator;

(f) "complaining Party" means any Party that requests the establishment of an arbitration tribunal under Article 306 of this Agreement;

(g) "registry" means an external body with relevant expertise appointed by the Parties to provide administrative support for the proceedings;

(h) "respondent Party" means the Party that is alleged to be in violation of the covered provisions; and

(i) "representative of a Party" means an employee or any individual appointed by a government department, agency or any other public entity of a Party who represents the Party for the purposes of a dispute under this Agreement or any supplementing agreement.

II. Notifications

2. Any request, notice, written submission or other document (hereinafter referred to as "notification") of:

(a) the arbitration tribunal shall be sent to both Parties at the same time;

(b) a Party, which is addressed to the arbitration tribunal, shall be copied to the other Party at the same time; and

(c) a Party, which is addressed to the other Party, shall be copied to the arbitration tribunal at the same time, as appropriate.

3. Any notification shall be made by e-mail or, where appropriate, any other means of telecommunication that provides a record of the sending thereof. Unless proven otherwise, such notification shall be deemed to be delivered on the date of its sending.

4. All notifications shall be addressed to the Legal Service of the European Commission and to the Legal Adviser of the Foreign, Commonwealth & Development Office of the United Kingdom, respectively.

5. Minor errors of a clerical nature in a request, notice, written submission or other document related to the arbitration tribunal proceedings may be corrected by the delivery of a new document clearly indicating the changes.

6. If the last day for the delivery of a document falls on a non-working day of the institutions of the Union or of the government of the United Kingdom or of Gibraltar, the time period for the delivery of the document shall end on the first following working day.

III. Appointment of arbitrators

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

8. The co-chair of the complaining Party shall notify, in writing, each individual who has been selected to serve as an arbitrator of their selection. Each individual shall confirm their availability to both Parties within five days after the date of delivery of the notification.

9. For the purposes of Article 306, the co-chair of the Cooperation Council of the complaining Party shall select by lot:

   (a) an arbitrator from the individuals who have been formally proposed by a Party as arbitrators for its sub-list pursuant to points (a) or (b) of Article 319(1), as applicable, or, in the absence of those, from the individuals who have been formally proposed by the other Party for that Party's sub-list; and

   (b) a chairperson from the individuals who have been formally proposed by one or both Parties for the sub-list of chairpersons pursuant to point (c) of Article 319(1).

10. The Parties may appoint a registry to assist in the organisation and conduct of specific dispute settlement proceedings on the basis of ad-hoc arrangements or on the basis of arrangements adopted by the Cooperation Council pursuant to Article 326 of this Agreement.

11. The arbitrators shall accept their appointment by signing the appointment contracts. The Parties shall endeavour to ensure that, at the latest by the time all the selected arbitrators have confirmed their availability, they have agreed on the remuneration and the reimbursement of expenses of the arbitrators and assistants, and have prepared the necessary appointment contracts, with a view to having them signed promptly. The remuneration and expenses of the arbitrators shall be based on WTO standards. The remuneration and expenses of an assistant or assistants of an arbitrator shall not exceed 50 % of the remuneration of that arbitrator.

IV. Organisational meeting

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

V. Written submissions

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

VI. Operation of the arbitration tribunal

14. The chairperson of the arbitration tribunal shall preside at all its meetings. The arbitration tribunal may delegate to the chairperson the authority to make administrative and procedural decisions.

15. Unless otherwise provided in Part Six of this Agreement or in these Rules of Procedure, the arbitration tribunal may conduct its activities by any means, including telephone, video-conference or other electronic means of communication.

16. Only arbitrators may take part in the deliberations of the arbitration tribunal, but the arbitration tribunal may permit their assistants to be present at its deliberations.

17. The drafting of any ruling, decision and report shall remain the exclusive responsibility of the arbitration tribunal and shall not be delegated.

18. Where a procedural question arises that is not covered by Part Six of this Agreement or its Annexes, the arbitration tribunal, after consulting the Parties, may adopt an appropriate procedure that is compatible with those provisions.

19. When the arbitration tribunal considers that there is a need to modify any of the time periods for the arbitration proceedings other than the time periods set out in Part Six of this Agreement or to make any other procedural or administrative adjustment, it shall inform the Parties, in writing and after consultations of the Parties, of the reasons for the change or adjustment and of the time period or adjustment needed.

VII. Replacement

20. When a Party considers that an arbitrator does not comply with the

requirements of Annex 30 and for that reason should be replaced, that Party shall notify the other Party within 15 days after the date on which it obtained sufficient evidence of the arbitrator's alleged non-compliance.

21. The Parties shall consult within 15 days after the date of the notification referred to in Rule 20. They shall inform the arbitrator of the alleged non-compliance and may request the arbitrator to take steps to remedy it. They may also, if they agree, remove the arbitrator and select a new arbitrator in accordance with Article 306 of this Agreement.

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

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

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

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

VIII. Hearings

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

25. Unless the Parties agree otherwise, the hearing shall be held in Brussels if the complaining Party is the United Kingdom, in respect of Gibraltar, and in London if the complaining Party is the Union. The respondent Party shall be in charge of the logistical administration of the hearing and bear the expenses derived therefrom.

26. The arbitration tribunal may convene additional hearings if the Parties so agree.

27. All arbitrators shall be present during the entirety of the hearing.

28. Unless the Parties agree otherwise, the following persons may attend the hearing, irrespective of whether the hearing is open to the public or not:

    (a) representatives of a Party;

    (b) advisers;

    (c) assistants and administrative staff;

    (d) interpreters, translators and court reporters of the arbitration tribunal; and

    (e) experts, as decided by the arbitration tribunal pursuant to Article 318 of

this Agreement.

29. No later than five days before the date of a hearing, each Party shall deliver to the arbitration tribunal and to the other Party a list of names of the persons who will make oral arguments or presentations in the hearing on behalf of that Party and of other representatives and advisers who will be attending the hearing.

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

    (a) Argument

        (i) argument of the complaining Party; and

        (ii) argument of the respondent Party.

    (b) Rebuttal Argument

        (i) reply of the complaining Party; and

        (ii) counter-reply of the respondent Party.

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

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

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

IX. Questions in writing

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

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

X. Confidentiality

36. Each Party and the arbitration tribunal shall treat as confidential any information submitted by the other Party to the arbitration tribunal that the other Party has designated as confidential. When a Party submits to the arbitration tribunal a written submission which contains confidential information, it shall also provide, within 15 days, a submission without the confidential information, which shall be disclosed to the public.

37. Nothing in these Rules of Procedure shall preclude a Party from disclosing statements of its own positions to the public to the extent that, when making reference to information submitted by the other Party, it does not disclose any information designated by the other Party as confidential.

38. The arbitration tribunal shall hold the relevant parts of the session in private when the submission and arguments of a Party contain confidential information. The Parties shall maintain the confidentiality of the arbitration tribunal hearings when the hearings are held in closed session.

XI. Ex parte contacts

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

40. An arbitrator shall not discuss any aspect of the subject matter of the proceedings with one Party or both Parties in the absence of the other arbitrators.

41. A Party shall not have any contact with an arbitrator. Any contact between a Party and a person who is under consideration for selection as an arbitrator shall be limited to issues relating to that person's availability and the appointment contract.

XII. Amicus curiae submissions

42. Unless the Parties agree otherwise within five days after the date of establishment of the arbitration tribunal, the arbitration tribunal may receive unsolicited written submissions from natural persons of a Party or legal persons established in the territory of a Party that are independent from the governments of the Parties (hereinafter referred to as "amicus curiae submissions"), provided that they:

    (a) are received by the arbitration tribunal within 10 days of the date of the establishment of the arbitration tribunal;

    (b) are concise and in no case longer than 15 pages, including any annexes, typed at double space;

    (c) are directly relevant to a factual or a legal issue under consideration by the arbitration tribunal;

(d) contain a description of the person making the submission, including for a natural person their nationality and for a legal person its place of establishment, the nature of its activities, its legal status, general objectives, its source of financing and any controlling entity;

(e) specify the nature of the interest that the person has in the arbitration proceedings; and

(f) are drafted in the working language determined in accordance with Rules 46 or 47.

43. The amicus curiae submissions shall be delivered to the Parties for comments. The Parties may submit comments, within 10 days after the date of their delivery to the Parties, to the arbitration tribunal.

44. The arbitration tribunal shall list in its report all the amicus curiae submissions it has received pursuant to Rule 42. The arbitration tribunal shall not be obliged to address in its report the arguments made in those submissions. If the arbitration tribunal addresses arguments made therein, it shall also take into account any comments made by the Parties pursuant to Rule 43.

XIII. Urgent cases

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

XIV. Working language and translation

46. The language of proceedings before the arbitration tribunal shall be English.

47. Rulings, reports and decisions of the arbitration tribunal shall be issued in English.

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

XV. Other procedures

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

ANNEX 30

CODE OF CONDUCT FOR ARBITRATORS

I. Definitions

1. In this Code of Conduct:

   (a) "arbitrator" means a member of an arbitration tribunal;

   (b) "assistant" means an individual who, under the terms of appointment and under the direction and control of an arbitrator, conducts research or provides assistance to that arbitrator; and

   (c) "candidate" means an individual who is under consideration for selection as an arbitrator pursuant to Article 306 or 319 of this Agreement.

II. Governing principles

2. In order to preserve the integrity and impartiality of the dispute settlement mechanism, candidates and arbitrators shall:

   (a) get acquainted with this Code of Conduct;

   (b) be independent and impartial;

   (c) avoid direct or indirect conflicts of interests;

   (d) avoid impropriety or bias and the appearance of impropriety or bias;

   (e) observe high standards of conduct;

(f) not take instructions from any organisation or government with regard to dispute settlement under this Agreement or any supplementing agreement; and

(g) not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.

3. Arbitrators shall not directly, or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of their duties.

4. Arbitrators shall not use their position on the arbitration tribunal to advance any personal or private interests. Arbitrators shall avoid actions that may create the impression that others are in a special position to influence them.

5. Arbitrators shall not allow past or present financial, business, professional, family or social relationships or responsibilities to influence their conduct or judgement.

6. Arbitrators shall avoid entering into any relationship or acquiring any financial interest that is likely to affect their impartiality or that might reasonably create an appearance of impropriety or bias.

III. Disclosure obligations

7. Prior to the acceptance of their appointment as arbitrators pursuant to Article 306 of this Agreement, candidates requested to serve as arbitrators shall receive a copy of this Code of Conduct and disclose to the Parties in writing any past or present interest, relationship or matter that is likely to affect their independence or impartiality or that might reasonably create an appearance of impropriety or bias. To that end, candidates shall make all reasonable efforts to become aware of any such interest, relationship or matter.

8. The disclosure obligation is a continuing duty which requires arbitrators to make at all times reasonable efforts to become aware of any interest, relationship or matter referred to in paragraph 7 that may arise during any stage of the proceedings, and to disclose it to the Parties in writing at the earliest time they become aware of it.

9. Candidates and arbitrators shall communicate any matter concerning actual or potential violations of this Code of Conduct to the Parties for their consideration.

IV. Duties of arbitrators

10. Upon acceptance of their appointment, arbitrators shall be available to perform and shall perform their duties thoroughly, expeditiously and with fairness and diligence throughout the proceedings.

11. Arbitrators shall consider only the issues raised in the proceedings and necessary for a decision or report. They shall not delegate this duty to any other person.

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

V. Duties of potential candidates

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

matter that may warrant consideration in this respect.

VI. Obligations of former arbitrators

14. Former arbitrators shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from any decision or ruling of the arbitration tribunal.

15. Former arbitrators shall comply with the obligations in Part VII of this Code of Conduct.

VII. Confidentiality

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

17. Arbitrators shall not disclose a decision or report of the arbitration tribunal or parts thereof prior to its publication in accordance with Article 321 of this Agreement.

18. Arbitrators shall not, at any time, disclose the deliberations of an arbitration tribunal, or any arbitrator's view, nor make any statements on the proceedings for which they have been appointed or on the issues in dispute in the proceedings.

VIII. Expenses

19. Arbitrators shall keep a record and render a final account of the time devoted

to the proceedings and of their expenses, as well as of the time and expenses of an assistant, if applicable.

PROTOCOL
ON SOCIAL SECURITY COORDINATION

TITLE I

GENERAL PROVISIONS

ARTICLE SSC.1

Definitions

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

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

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

(c) "assisted reproduction services" means any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child;

(d) "benefits in kind" means:

(i) for the purposes of Chapter 1 of Title III, benefits in kind provided for under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care;

(ii) for the purposes of Chapter 2 of Title III, all benefits in kind relating to accidents at work and occupational diseases as defined in point (i) and provided for under the schemes of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain regarding accidents at work and occupational diseases;

(e) "child-raising period" refers to any period which is credited under the pension legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively;

(f) "civil servant" means a person considered to be such or treated as such by either the United Kingdom, in respect of Gibraltar, where the administration employing them is subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where the administration employing them is subject to the legislation of the Kingdom of Spain;

(g) "competent authority" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, the Minister, Ministers or other equivalent authority responsible for social security schemes throughout or in any part of the Kingdom of Spain or Gibraltar;

(h) "competent institution" means:

(i) the institution with which the person concerned is insured at the time of the application for benefit; or

(ii) the institution from which the person concerned is or would be entitled to benefits if that person or a member or members of their family resided in either the Kingdom of Spain, where the institution is situated in the Kingdom of Spain or Gibraltar, where the institution is situated in Gibraltar; or

(iii) the institution notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned; or

(iv) in the case of a scheme relating to an employer's obligations in respect of the benefits set out in Article SSC.4(1), either the employer or the insurer involved or, in default thereof, the body or authority notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned;

(i) "death grant" means any one-off payment in the event of death, excluding the lump-sum benefits referred to in point (v);

(j) "family benefit" means all benefits in kind or in cash intended to meet family expenses, excluding advances for maintenance payments and special childbirth and adoption allowances mentioned in Annex SSC-1;

(k) "frontier worker" means any person covered by the definition in Article 291(2) and (3) of this Agreement;

(l) "home base" means the place from where the crew member normally starts and ends a duty period or a series of duty periods, and where, under normal conditions, the operator/airline is not responsible for the accommodation of the crew member concerned;

(m) "institution" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, the body or authority responsible for applying all or part of the legislation;

(n) "institution of the place of residence" and "institution of the place of stay" mean, respectively, the institution which is competent to provide benefits in the place where the person concerned resides and the institution which is competent to provide benefits in the place where the person concerned is staying, in accordance with the legislation administered by that institution or, where no such institution exists, the institution designated by the relevant competent authority;

(o) "insured person", in relation to the social security branches covered by Chapters 1 and 3 of Title III, means any person satisfying the conditions required under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is competent under Title II in order to have the right to benefits, taking into account the provisions of this Protocol;

(p) "legislation" means, in respect of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, laws, regulations and other statutory

provisions and all other implementing measures relating to the social security branches covered by Article SSC.4(1), but excludes contractual provisions other than those which serve to implement an insurance obligation arising from the laws and regulations referred to in this point or which have been the subject of a decision by the public authorities which makes them obligatory or extends their scope, provided that the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is concerned, makes a declaration to that effect, notified to the Specialised Committee on the Circulation of Persons. The Union shall publish such a declaration in the *Official Journal of the European Union*;

(q) "long-term care benefit" means a benefit in kind or in cash the purpose of which is to address the care needs of a person who, on account of impairment, requires considerable assistance, including but not limited to assistance from another person or persons to carry out essential activities of daily living for an extended period of time in order to support their personal autonomy; this includes benefits granted for the same purpose to a person providing such assistance;

(r) "member of the family" means:

(i) (A) any person defined or recognised as a member of the family or designated as a member of the household by the legislation under which benefits are provided;

(B) with regard to benefits in kind pursuant to Chapter 1 of Title III, any person defined or recognised as a member of the family or designated as a member of the household by the legislation of the United Kingdom, in respect of Gibraltar, where that person resides in Gibraltar, or of the Kingdom of Spain, where that person resides in the Kingdom of Spain;

(ii) if the legislation of the United Kingdom, in respect of Gibraltar, or of

the Kingdom of Spain, whichever is applicable under point (i), does not make a distinction between the members of the family and other persons to whom it is applicable, the spouse, minor children, and dependent children who have reached the age of majority shall be considered members of the family;

(iii) if, under the legislation which is applicable under points (i) and (ii), a person is considered a member of the family or member of the household only if that person lives in the same household as the insured person or pensioner, this condition shall be considered satisfied if the person in question is mainly dependent on the insured person or pensioner;

(s) "pensioner" means a person who is in receipt of a statutory old-age, invalidity or survivors' benefit on behalf of the United Kingdom, in respect of Gibraltar, or on behalf of the Kingdom of Spain following the pursuance of an employed or self-employed activity in Gibraltar or the Kingdom of Spain;

(t) "period of employment" or "period of self-employment" mean periods so defined or recognised by the legislation under which they were completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of employment or to periods of self-employment;

(u) "period of insurance" means periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of insurance;

(v) "pension" covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement of contributions and, subject to the provisions of Title III, revaluation increases

or supplementary allowances;

(w) "pre-retirement benefit" means all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the age at which they qualify for an old-age pension or an early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the Kingdom of Spain or Gibraltar, whichever is competent; "early old-age benefit" means a benefit provided before the normal pension entitlement age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;

(x) "registered office or place of business" means the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out;

(y) "residence" means the place where a person legally resides;

(z) "special non-contributory cash benefits" means those non-contributory cash benefits which:

(i) are intended to provide either:

(A) supplementary, substitute or ancillary cover against the risks covered by the branches of social security referred to in Article SSC.4(1), and which guarantee the persons concerned a minimum subsistence income having regard to the economic and social situation in the Kingdom of Spain or Gibraltar, whichever is concerned; or

(B) solely specific protection for the disabled, closely linked to the said person's social environment in the Kingdom of Spain or

Gibraltar, whichever is concerned, and

(ii) are financed exclusively from compulsory taxation intended to cover general public expenditure and the conditions for providing and for calculating the benefits are not dependent on any contribution in respect of the beneficiary. However, benefits provided to supplement a contributory benefit shall not be considered to be contributory benefits for this reason alone;

(aa) "special scheme for civil servants" means any social security scheme which is different from the general social security scheme applicable to employed persons in the Kingdom of Spain or Gibraltar, whichever is concerned, and to which all, or certain categories of, civil servants are directly subject;

(bb) "stay" means temporary residence.

ARTICLE SSC.2

Communications and notifications

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

ARTICLE SSC.3

Persons covered

This Protocol applies to:

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

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

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

ARTICLE SSC.4

Matters covered

1. This Protocol applies to the following branches of social security:

(a) sickness benefits;

(b) maternity and equivalent paternity benefits;

(c) invalidity benefits;

(d) old-age benefits;

(e) survivors' benefits;

(f) benefits in respect of accidents at work and occupational diseases;

(g) death grants;

(h) unemployment benefits;

(i) pre-retirement benefits; and

(j) family benefits.

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

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

4. This Protocol does not apply to:

(a) special non-contributory cash benefits;

(b) long-term care benefits;

(c) social and medical assistance;

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

(e) assisted reproduction services.

ARTICLE SSC.5

Equality of treatment

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

ARTICLE SSC.6

Equal treatment of benefits, income, facts or events

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

(a) where, under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the receipt of social security benefits and other

income has certain legal effects, the relevant provisions of that legislation shall also apply to the receipt of equivalent benefits acquired under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or to income acquired in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent;

(b) where, under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, legal effects are attributed to the occurrence of certain facts or events, the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain shall take account of like facts or events that have occurred in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, as though they had taken place in the territory within the remit of the competent institution.

ARTICLE SSC.7

Aggregation of periods

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

(a) the acquisition, retention, duration or recovery of the right to benefits;

(b) the coverage by legislation; or

(c) the access to or the exemption from compulsory, optional continued or voluntary insurance.

ARTICLE SSC.8

Waiving of residence rules

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

ARTICLE SSC.9

Prevention of overlapping of benefits

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

TITLE II

DETERMINATION OF THE LEGISLATION APPLICABLE

ARTICLE SSC.10

General rules

1. Persons to whom this Protocol applies shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain. Such legislation shall be determined in accordance with this Title.

2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.

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

(a) a person pursuing an activity as an employed or self-employed person in Gibraltar shall be subject to the legislation of the United Kingdom, in respect of Gibraltar; a person pursuing an activity as an employed or self-employed person in the Kingdom of Spain shall be subject to the legislation of the Kingdom of Spain;

(b) a civil servant shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, where the administration employing them is subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where the administration employing them is subject to the legislation of the Kingdom of Spain;

(c) a person receiving unemployment benefits under the legislation of the United Kingdom, in respect of Gibraltar, shall be subject to the legislation of the United Kingdom, in respect of Gibraltar; a person receiving unemployment benefits under the legislation of the Kingdom of Spain shall be subject to the legislation of the Kingdom of Spain;

(d) a pensioner who is residing in Gibraltar or the Kingdom of Spain shall be subject to the legislation of the United Kingdom, in respect of Gibraltar, where that person resides in Gibraltar, or of the Kingdom of Spain, where that person resides in the Kingdom of Spain, without prejudice to other provisions of this Protocol guaranteeing them benefits under the other legislation.

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

5. For the purposes of this Title, a person pursuing an activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be pursuing that activity in the Kingdom of Spain, where the home base is located in the Kingdom of Spain, or in Gibraltar, where the home base is located in Gibraltar.

ARTICLE SSC.11

Detached frontier workers

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

(a) the anticipated duration of such work does not exceed 24 months; and

(b) that person is not sent to replace another detached worker.

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

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

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

ARTICLE SSC.12

Posted workers

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

(a) the duration of such work does not exceed 24 months;

(b) that person is not sent to replace another person; and

(c) that person is resident in the Kingdom of Spain and returns at least once per week to the Kingdom of Spain if the person is posted to Gibraltar, or is resident in Gibraltar and returns at least once per week to Gibraltar if the person is posted to the Kingdom of Spain.

ARTICLE SSC.13

Pursuit of activities in the Kingdom of Spain and Gibraltar

1. For persons to whom this Protocol applies who, in addition to their activity as frontier workers, also pursue an activity in their place of residence, the following paragraphs shall apply.

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

(a) the legislation of the place of residence if that person pursues a substantial part of their activity there; or

(b) if that person does not pursue a substantial part of their activity in the place of residence:

(i) the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where the registered office or place of business of the undertaking or employer is situated if that person is employed by one undertaking or employer; or

(ii) the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain depending on where the registered office or place of business of the undertakings or employers is situated if that person is employed by two or more undertakings or employers which have their registered office or place of business only in the Kingdom of Spain or only in Gibraltar; or

(iii) the legislation of the United Kingdom, in respect of Gibraltar, if the person resides in the Kingdom of Spain, or of the Kingdom of Spain if the person resides in Gibraltar, if that person is employed by two or more undertakings or employers, which have their registered office or place of business in the Kingdom of Spain and Gibraltar; or

(iv) the legislation of the place of residence if that person is employed by one or more undertakings or employers, at least one of which has their registered office or place of business outside the Kingdom of Spain and Gibraltar.

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

(a) the legislation of the place of residence if that person pursues a substantial part of their activity there; or

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

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

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

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

ARTICLE SSC.14

Voluntary insurance or optional continued insurance

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

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

schemes or optional continued insurance schemes, the person concerned shall join only the scheme of their choice.

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

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

ARTICLE SSC.15

Obligations of the employer

1. An employer of a frontier worker who is subject to the legislation of the

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

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

TITLE III

SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1

SICKNESS, MATERNITY AND EQUIVALENT PATERNITY BENEFITS

SECTION 1

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

ARTICLE SSC.16

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

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

ARTICLE SSC.17

Stay in the place of employment or self-employment

1. Frontier workers, detached frontier workers and posted workers shall be entitled to benefits in kind while staying in the place of employment or self-employment. In the case of frontier workers and detached frontier workers, these benefits in kind shall be provided by the competent institution and at its own expense, in accordance with the provisions of the legislation it applies, as though the persons concerned resided there.

2. In the case of posted workers, these benefits in kind shall be those which become necessary on medical grounds during their stay, taking into account the nature of the benefits and expected length of the stay. These benefits in kind shall be provided on behalf of the competent institution, by the institution of the place of stay, in accordance with the legislation that it applies, as though the person were insured under the said legislation.

3. Paragraph 2 does not apply where the person concerned travelled to the Kingdom of Spain or Gibraltar, as the case may be, with the purpose of receiving the benefits in kind.

ARTICLE SSC.18

Cash benefits

1. Frontier workers and posted workers and the members of their family shall be entitled to cash benefits provided by the competent institution in accordance with the legislation it applies. By agreement between the competent institution and the institution of the place of residence or stay, such benefits may, however, be provided by the institution of the place of residence or stay at the expense of the competent institution in accordance with the legislation which the competent

institution applies.

2. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the calculation of cash benefits shall be based on an average income or on an average contribution basis, the competent institution shall determine such average income or average contribution basis exclusively by references to the incomes confirmed as having been paid, or to the contribution bases applied during the periods completed under the said legislation.

3. Where the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the calculation of cash benefits shall be based on standard income, the competent institution shall take into account exclusively the standard income or, where appropriate, the average of standard incomes for the periods completed under the said legislation.

4. Paragraphs 2 and 3 apply *mutatis mutandis* to cases where the legislation applied by the competent institution lays down a specific reference period which corresponds in the case in question either wholly or partly to the periods which the person concerned has completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSC.19

Pension claimants

1. An insured person who, on making a claim for a pension, or during the investigation thereof, ceases to be entitled to benefits in kind under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall remain entitled to benefits in kind in the place of residence, provided that that person resides in Gibraltar or in the Kingdom of Spain, as the case may be, and provided that the pension claimant satisfies the insurance conditions of the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of

Spain, as referred to in paragraph 2. The right to benefits in kind in the place of residence shall also apply to the members of the family of the pension claimant.

2. The benefits in kind shall be chargeable to the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain which, in the event of a pension being awarded, would become competent under Articles SSC.20 and SSC.21.

SECTION 2

SPECIAL PROVISIONS FOR PENSIONERS AND THE MEMBERS OF THEIR FAMILY

ARTICLE SSC.20

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

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

ARTICLE SSC.21

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

1. A person who:

(a) resides in the Kingdom of Spain;

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

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

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

2. A person who:

(a) resides in Gibraltar;

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

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

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

entitled to a pension and entitled to benefits in kind under the legislation of the place of residence.

ARTICLE SSC.22

Continuation of treatment

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

ARTICLE SSC.23

Cash benefits for pensioners

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

2. Paragraph 1 also applies to the members of a pensioner's family.

ARTICLE SSC.24

Contributions

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

SECTION 3

COMMON PROVISIONS

ARTICLE SSC.25

General provisions

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

ARTICLE SSC.26

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

1. Unless otherwise provided for by paragraphs 2 and 3, where a member of the family has an independent right to benefits in kind based on the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or on this Chapter, such right shall take priority over a derivative right to benefits in kind for members of the family.

2. Unless otherwise provided for by paragraph 3, where the independent right in the place of residence exists directly and solely on the basis of the residence of the person concerned in that place, a derivative right to benefits in kind shall take priority over the independent right.

3. Notwithstanding paragraphs 1 and 2, benefits in kind shall be provided to the members of the family of an insured person at the expense of the competent institution in the place in which they reside, where:

(a) those members of the family reside in Gibraltar or the Kingdom of Spain and where under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, the right to benefits in kind is not subject to conditions of insurance or activity as an employed or self-employed person; and

(b) the spouse or the person caring for the children of the insured person pursues an activity as an employed or self-employed person in Gibraltar or the Kingdom of Spain, or receives a pension from either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, respectively, on the basis of an activity as an employed or self-employed person.

ARTICLE SSC.27

Reimbursements between institutions

1. The benefits in kind provided by the institution of the United Kingdom, in respect of Gibraltar, on behalf of the institution of the Kingdom of Spain, or of the Kingdom of Spain on behalf of the institution of the United Kingdom, in respect of Gibraltar, under this Chapter shall give rise to full reimbursement.

2. The reimbursements referred to in paragraph 1 shall be determined and effected in accordance with an administrative arrangement agreed upon between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

3. The United Kingdom, in respect of Gibraltar, or the Kingdom of Spain and their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between them.

CHAPTER 2

BENEFITS IN RESPECT OF ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

ARTICLE SSC.28

Right to benefits in kind and in cash

1. Without prejudice to any more favourable provisions in paragraphs 2 and 3 of this Article, Articles SSC.16 and SSC.17 also apply to benefits relating to accidents at work or occupational diseases.

2. A person who has sustained an accident at work or has contracted an occupational disease and who resides or stays in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, shall be entitled to the special benefits in kind of the scheme covering accidents at work and occupational diseases provided, on behalf of the competent institution, by the institution of the place of residence or stay in accordance with the legislation which it applies, as though that person were insured under that legislation.

3. Article SSC.18 also applies to benefits falling within this Chapter.

ARTICLE SSC.29

Costs of transport

1. The competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, depending on which legislation provides for meeting the costs of transporting a person who has sustained an accident at work or

is suffering from an occupational disease, either to their place of residence or to a hospital, shall meet such costs to the corresponding place where the person resides.

2. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, depending on which legislation provides for meeting the costs of transporting the body of a person killed in an accident at work to the place of burial shall, in accordance with the legislation it applies, meet such costs to the corresponding place where the person was residing at the time of the accident.

ARTICLE SSC.30

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

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

ARTICLE SSC.31

Aggravation of an occupational disease

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

(a) if the person concerned, while in receipt of benefits, has not pursued, under the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, an activity as an employed or self-employed person likely to cause or aggravate the disease in question, the competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the first where the person has received benefits, shall bear the cost of the benefits under the legislation it applies, taking into account the aggravation;

(b) if the person concerned, while in receipt of benefits, has pursued such an activity under the legislation applicable either in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain, the competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the first where the person has received benefits, shall bear the cost of the benefits under the legislation it applies without taking the aggravation into account. The competent institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, whichever is the second where the person has received benefits, shall grant a supplement to the person concerned, the amount of which shall be equal to the difference between the amount of benefits due after the aggravation and the amount which would have been due prior to the aggravation under the legislation it applies, if the disease in question had occurred under the legislation applied by that institution;

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

ARTICLE SSC.32

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

1. If there is no insurance against accidents at work or occupational disease in the place, where the person concerned resides or stays, or if such insurance exists but there is no institution responsible for providing benefits in kind, those benefits shall be provided by the institution of the place of residence or stay responsible for providing benefits in kind in the event of sickness.

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

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

(a) no compensation is due in respect of an accident at work or an occupational

disease which had occurred or had been confirmed previously under the legislation it applies; and

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

ARTICLE SSC.33

Reimbursements between institutions

1. Article SSC.28 also applies to benefits falling within this Chapter, and reimbursement shall be made on the basis of actual costs.

2. The United Kingdom, in respect of Gibraltar, or the Kingdom of Spain or their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between them.

CHAPTER 3

DEATH GRANTS

ARTICLE SSC.34

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

1. When an insured person or a member of their family dies in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, the death shall be deemed to have occurred where the competent institution is located.

2. The competent institution shall be obliged to provide death grants payable under the legislation it applies, even if the person entitled resides in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent or in Gibraltar, where the Kingdom of Spain is competent.

3. Paragraphs 1 and 2 shall also apply when the death is the result of an accident at work or an occupational disease.

ARTICLE SSC.35

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

1. In the event of the death of a pensioner who was entitled to one pension or more pensions under the legislation applicable in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain when that pensioner was residing in the Kingdom of Spain, when the institution responsible for the cost of benefits in kind

is in Gibraltar and residing in Gibraltar, when the institution responsible for the cost of benefits in kind is in the Kingdom of Spain, the death grants payable under the legislation administered by that institution shall be provided at its own expense as though the pensioner had been residing at the time of their death in the place where that institution is situated.

2. Paragraph 1 shall apply *mutatis mutandis* to the members of the family of a pensioner.

CHAPTER 4

INVALIDITY BENEFITS

ARTICLE SSC.36

Persons subject only to type A legislation

1. For the purposes of this Chapter, "type A legislation" means legislation under which the amount of invalidity benefits is independent of the duration of the periods of insurance, and "type B legislation" means any other legislation.

2. A person who has completed periods of insurance exclusively under type A legislation shall be entitled to benefits only from the institution of the place whose legislation was applicable at the time when the incapacity for work followed by invalidity occurred, taking into account, where appropriate, Article SSC.37 and shall receive such benefits in accordance with that legislation.

3. If the legislation referred to in paragraph 2 contains rules for reduction, suspension or withdrawal of invalidity benefits in the case of overlapping with other income or with benefits of a different kind within the meaning of Articles SSC.46(2), SSC.46(3) and SSC.48(3) shall apply *mutatis mutandis*.

ARTICLE SSC.37

Special provisions on aggregation of periods

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

ARTICLE SSC.38

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

1. A person who has been successively or alternately subject to type A and type B legislation shall be entitled to benefits under Chapter 5, which shall apply *mutatis mutandis* taking into account paragraph 3.

2. If the person concerned has been previously subject to a type B legislation and suffers incapacity for work leading to invalidity while subject to a type A legislation, that person shall receive benefits according to Article SSC.36 under type A legislation, provided that:

– that person satisfies the conditions of that legislation exclusively, or of others of the same type taking into account, where appropriate Article SSC.37 but without having recourse to periods of insurance or residence completed under a type B legislation; and

– that person does not assert any claims to old-age benefits, taking into account Article SSC.43.

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

ARTICLE SSC.39

Aggravation of invalidity

1. In the case of aggravation of an invalidity for which a person is receiving

benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the following provisions shall apply, taking the aggravation into account:

(a) the benefits shall be provided in accordance with Chapter 5, applied *mutatis mutandis*;

(b) however, where the person concerned has been subject to type A legislation and since receiving benefit has not been subject to the type B legislation, the benefit shall be provided in accordance with Article SSC.36(2).

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

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

ARTICLE SSC.40

Conversion of invalidity benefits into old-age benefits

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

2. Where a person receiving invalidity benefits can establish a claim to old-age benefits under the legislation of both the United Kingdom, in respect of Gibraltar,

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

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

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

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

ARTICLE SSC.41

Special provisions for civil servants

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

CHAPTER 5

OLD-AGE AND SURVIVORS' PENSIONS

ARTICLE SSC.42

Taking into account child-raising periods

1. Where, under the legislation of the United Kingdom, in respect of Gibraltar, when the institution which is competent under Title II is the United Kingdom, in respect of Gibraltar, or where, under the legislation of the Kingdom of Spain, when the institution which is competent under Title II is the Kingdom of Spain, no child-raising period is taken into account, the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain whose legislation, according to Title II, was applicable to the person concerned on the grounds that the person was pursuing an activity as an employed or self-employed worker at the date when, under that legislation, the child-raising period started to be taken into account for the child concerned, shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory.

2. Paragraph 1 shall not apply if the person concerned is, or becomes, subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain due to the pursuit of an employed or self-employed activity.

ARTICLE SSC.43

General provisions

1. The competent institutions shall determine entitlement to benefit, under the legislation of either the United Kingdom, in respect of Gibraltar, where the person concerned has been subject to the legislation of the United Kingdom, in respect of

Gibraltar, when a request for award has been submitted, or the Kingdom of Spain, where the person concerned has been subject to Spanish legislation when a request for award has been submitted, or both, unless the person concerned expressly requests deferment of the award of old-age benefits under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain or both.

2. If at a given moment the person concerned does not satisfy, or no longer satisfies, the conditions laid down by the legislation of either the United Kingdom, in respect of Gibraltar, where that person has been subject to the legislation of the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, where that person has been subject to the legislation of the Kingdom of Spain, the institutions applying legislation the conditions of which have been satisfied shall not take into account, when performing the calculation in accordance with point (a) or (b) of Article SSC.45(1), the periods completed under the legislation the conditions of which have not been satisfied, or are no longer satisfied, where this gives rise to a lower amount of benefit.

3. Paragraph 2 shall apply *mutatis mutandis* when the person concerned has expressly requested deferment of the award of old-age benefits.

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

ARTICLE SSC.44

Special provisions on aggregation of periods

1. Where the legislation of the United Kingdom, in respect of Gibraltar, or of

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

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

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

3. Where the legislation or specific scheme of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain makes the acquisition, retention or recovery of the right to benefits conditional upon the person concerned being

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

ARTICLE SSC.45

Award of benefits

1. The competent institution shall calculate the amount of the benefit that would be due:

(a) under the legislation it applies, only where the conditions for entitlement to benefits have been satisfied exclusively under national law (independent benefit);

(b) by calculating a theoretical amount and subsequently an actual amount (pro rata benefit), as follows:

(i) the theoretical amount of the benefit is equal to the benefit which the person concerned could claim if all the periods of insurance which have been completed under the legislation of the United Kingdom, in respect

of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, had been completed under the legislation it applies on the date of the award of the benefit. If, under that legislation, the amount does not depend on the duration of the periods completed, that amount shall be regarded as being the theoretical amount;

(ii) the competent institution shall then establish the actual amount of the pro rata benefit by applying to the theoretical amount the ratio between the duration of the periods completed before materialisation of the risk under the legislation it applies and the total duration of the periods completed before materialisation of the risk under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain.

2. Where appropriate, the competent institution shall apply, to the amount calculated in accordance with points (a) and (b) of paragraph 1, all the rules relating to reduction, suspension or withdrawal, under the legislation it applies, within the limits provided for by Articles SSC.46, SSC.47 and SSC.48.

3. The person concerned shall be entitled to receive from the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain the higher of the amounts calculated in accordance with points (a) and (b) of paragraph 1.

4. Where the calculation pursuant to point (a) of paragraph 1 in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain invariably results in the independent benefit being equal to or higher than the pro rata benefit, calculated in accordance with point (b) of paragraph 1, the competent institution shall waive the pro rata calculation, provided that:

(a) such a situation is set out in Annex SSC-2;

(b) no legislation containing rules against overlapping, as referred to in Articles SSC.47 and SSC.48, is applicable unless the conditions laid down in Article SSC.48(2) are fulfilled; and

(c) Article SSC.50 is not applicable in the specific circumstances of the case in relation to periods completed under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent.

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

ARTICLE SSC.46

Rules to prevent overlapping

1. Any overlapping of old-age and survivors' benefits calculated or provided on the basis of periods of insurance completed by the same person shall be considered to be overlapping of benefits of the same kind.

2. Overlapping of benefits which cannot be considered to be of the same kind within the meaning of paragraph 1 shall be considered to be overlapping of benefits of a different kind.

3. The following provisions shall be applicable for the purposes of rules to prevent overlapping laid down by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in the case of overlapping of a benefit in

respect of old-age or survivors with a benefit of the same kind or a benefit of a different kind or with other income:

(a) the competent institution shall take into account the benefits or incomes acquired in Gibraltar, where the Kingdom of Spain is competent, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, only where the legislation it applies provides for benefits or income acquired outside of its territory to be taken into account;

(b) the competent institution shall take into account the amount of benefits to be paid by the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or by the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, before deduction of tax, social security contributions and other individual levies or deductions, unless the legislation it applies provides for the application of rules to prevent overlapping after such deductions, under the conditions and the procedures laid down in Annex SSC-5;

(c) the competent institution shall not take into account the amount of benefits acquired under the legislation of the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or of the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, on the basis of voluntary insurance or continued optional insurance;

(d) if the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain applies rules to prevent overlapping because the person concerned receives benefits of the same or of a different kind under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, or income acquired in Gibraltar or the Kingdom of Spain, the benefit due may be reduced solely by the amount of such benefits or such income.

ARTICLE SSC.47

Overlapping of benefits of the same kind

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

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

(a) a benefit the amount of which does not depend on the duration of periods of insurance; or

(b) a benefit the amount of which is determined on the basis of a credited period deemed to have been completed between the date on which the risk materialised and a later date, overlapping with:

  (i) a benefit of the same type, except where an agreement has been concluded between both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain to avoid the same credited period being taken into account more than once; or

  (ii) a benefit referred to in point (a).

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

ARTICLE SSC.48

Overlapping of benefits of a different kind

1. If the receipt of benefits of a different kind or other income requires the application of the rules to prevent overlapping provided for by the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain regarding:

(a) two or more independent benefits, the competent institutions shall divide the amounts of the benefit or benefits or other income, as they have been taken into account, by the number of benefits subject to the said rules; however, the application of this point cannot deprive the person concerned of their status as a pensioner for the purposes of the other chapters of this Title under the conditions and the procedures laid down in Annex SSC-5;

(b) one or more pro rata benefits, the competent institutions shall take into account the benefit or benefits or other income and all the elements stipulated for applying the rules to prevent overlapping as a function of the ratio between the periods of insurance established for the calculation referred to in point (b)(ii) of Article SSC.45(1);

(c) one or more independent benefits and one or more pro rata benefits, the competent institutions shall apply *mutatis mutandis* point (a) as regards independent benefits and point (b) as regards pro rata benefits.

2. The competent institution shall not apply the division stipulated in respect of independent benefits, if the legislation it applies provides for account to be taken of benefits of a different kind or other income and all other elements for calculating part of their amount determined as a function of the ratio between periods of insurance referred to in point (b) point (ii) of Article SSC.45(1).

3. Paragraphs 1 and 2 shall apply *mutatis mutandis* where the legislation of the

United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that a right to a benefit cannot be acquired in the case where the person concerned is in receipt of a benefit of a different kind, payable under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, or of other income.

ARTICLE SSC.49

Additional provisions for the calculation of benefits

1. For the calculation of the theoretical and pro rata amounts referred to in point (b) of Article SSC.45(1), the following rules shall apply:

(a) where the total length of the periods of insurance completed before the risk materialised under the legislation of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain is longer than the maximum period required by the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain for receipt of full benefit, the competent institution of the United Kingdom, in respect of Gibraltar, where the United Kingdom, in respect of Gibraltar, is competent, or of the Kingdom of Spain, where the Kingdom of Spain is competent, shall take into account this maximum period instead of the total length of the periods completed; this method of calculation shall not result in the imposition on that institution of the cost of a benefit greater than the full benefit provided for by the legislation it applies. This provision shall not apply to benefits the amount of which does not depend on the length of insurance;

(b) the procedure for taking into account overlapping periods is laid down in Annex SSC-5;

(c) if the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides that the benefits are to be calculated on the basis of incomes, contributions, bases of contributions, increases, earnings, other

amounts or a combination of more than one of them (average, proportional, fixed or credited), the competent institution shall:

(i) determine the basis for calculation of the benefits in accordance only with periods of insurance completed under the legislation it applies;

(ii) use, in order to determine the amount to be calculated in accordance with the periods of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, the same elements determined or recorded for the periods of insurance completed under the legislation it applies; where necessary in accordance with the procedures laid down in Annex SSC-4 for the United Kingdom, in respect of Gibraltar, or for the Kingdom of Spain;

(d) in the event that point (c) is not applicable because the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain provides for the benefit to be calculated on the basis of elements other than periods of insurance which are not linked to time, the competent institution shall take into account, in respect of each period of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, the amount of the capital accrued, the capital which is considered as having been accrued or any other element for the calculation under the legislation it administers divided by the corresponding units of periods in the pension scheme concerned.

2. The provisions of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain concerning the revalorisation of the elements taken into account for the calculation of benefits shall apply, as appropriate, to the elements to be taken into account by the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in accordance with

paragraph 1, in respect of the periods of insurance completed under the legislation of either the United Kingdom, in respect of Gibraltar, where the Kingdom of Spain is competent, or the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent.

ARTICLE SSC.50

Periods of insurance of less than one year

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

(a) the duration of the said periods is less than one year; and

(b) taking only these periods into account no right to benefit is acquired under that legislation.

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

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

3. If the effect of applying paragraph 1 would be to relieve all the institutions of both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain of their obligations, benefits shall be provided exclusively under the legislation of either the United Kingdom, in respect of Gibraltar, where the conditions under its legislation are the last to have been satisfied, or the Kingdom of Spain, where the

conditions under its legislation are the last to have been satisfied, as if all the periods of insurance completed and taken into account in accordance with Article SSC.7 and Article SSC.44(1) and (2) had been completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

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

ARTICLE SSC.51

Award of a supplement

1. A recipient of benefits to whom this Chapter applies may not, in either Gibraltar, where Gibraltar is the place of residence and where under the legislation of the United Kingdom, in respect of Gibraltar, a benefit is payable to them, or in the Kingdom of Spain, where the Kingdom of Spain is the place of residence and under which legislation a benefit is payable to them, be provided with a benefit which is less than the minimum benefit fixed by that legislation for a period of insurance equal to all the periods taken into account for the payment in accordance with this Chapter.

2. The competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall pay the recipient of benefits referred to in paragraph 1 throughout the period of their residence in Gibraltar or the Kingdom of Spain, respectively, a supplement equal to the difference between the total of the benefits due under this Chapter and the amount of the minimum benefit.

ARTICLE SSC.52

Recalculation and revaluation of benefits

1. If the method for determining benefits or the rules for calculating benefits are

altered under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or if the personal situation of the person concerned undergoes a relevant change which, under that legislation, would lead to an adjustment of the amount of the benefit, a recalculation shall be carried out in accordance with Article SSC.45.

2. On the other hand, if, by reason of an increase in the cost of living or changes in the level of income or other grounds for adjustment, the benefits of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain are altered by a percentage or fixed amount, such percentage or fixed amount shall be applied directly to the benefits determined in accordance with Article SSC.45, without the need for a recalculation.

ARTICLE SSC.53

Special provisions for civil servants

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

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

If, account having been taken of the periods thus completed, the person concerned does not satisfy the conditions for the receipt of these benefits, these periods shall

be taken into account for the award of benefits under the general scheme or, failing that, the scheme applicable to manual or clerical workers, as the case may be.

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

CHAPTER 6

UNEMPLOYMENT BENEFITS

ARTICLE SSC.54

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

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

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

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

(a) periods of insurance, if that legislation requires periods of insurance;

(b) periods of employment, if that legislation requires periods of employment; or

(c) periods of self-employment, if that legislation requires periods of self-employment.

ARTICLE SSC.55

Calculation of unemployment benefits

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

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

legislation.

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

ARTICLE SSC.56

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

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

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

Unemployment benefits may be payable in a lump sum.

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

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

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

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

The competent institution of the place of employment shall efficiently and without undue delay facilitate the exchange of information and documentation about the

periods of insured activity and benefits, in order not to affect the recognition, sustainment, suspension, termination or resumption of the benefits.

CHAPTER 7

PRE-RETIREMENT BENEFITS

ARTICLE SSC.57

Benefits

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

CHAPTER 8

FAMILY BENEFITS

ARTICLE SSC.58

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

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

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

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

ARTICLE SSC.59

Priority rules in the event of overlapping

1. Where, during the same period and for the same family members, benefits are provided for under the legislation of both the United Kingdom, in respect of

Gibraltar, and the Kingdom of Spain, the following priority rules shall apply:

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

(b) in the case of benefits payable by both the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain on the same basis, the order of priority shall be established by referring to the following subsidiary criteria:

(i) in the case of rights available on the basis of an activity as an employed or self-employed person: the place of residence of the children, provided that there is such activity, and additionally, where appropriate, the highest amount of the benefits provided for by the conflicting legislation. In the latter case, the cost of the benefits shall be shared in accordance with the criteria laid down in Annex SSC-5;

(ii) in the case of rights available on the basis of receipt of pensions: the place of residence of the children, provided that a pension is payable under its legislation, and additionally, where appropriate, the longest period of insurance under the conflicting legislation.

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

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

(a) that institution shall forward the application to the competent institution of either the United Kingdom, in respect of Gibraltar, when its legislation is applicable by priority, or the Kingdom of Spain, when its legislation is applicable by priority, inform the person concerned and, without prejudice to the provisions of Annex SSC-5 concerning the provisional award of benefits, provide, if necessary, the differential supplement mentioned in paragraph 2;

(b) the competent institution of either the United Kingdom, in respect of Gibraltar, when its legislation is applicable by priority, or the Kingdom of Spain, when its legislation is applicable by priority, shall deal with this application as though it were submitted directly to itself, and the date on which such application was submitted to the first institution shall be considered as the date of its claim to the institution with priority.

ARTICLE SSC.60

Provision of benefits

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

ARTICLE SSC.61

Additional provisions

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

2. Benefits paid in the form of pensions or supplements to pensions shall be provided and calculated in accordance with Chapter 5.

TITLE IV

MISCELLANEOUS PROVISIONS

ARTICLE SSC.62

Cooperation

1. The competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall notify the Specialised Committee on the Circulation of Persons of any changes to their legislation as regards the branches of social security covered by Article SSC.4 which are relevant to or may affect the implementation of this Protocol.

2. Unless this Protocol requires such information to be notified to the Specialised Committee on the Circulation of Persons, the competent authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall communicate to each other measures taken to implement this Protocol that are not notified under paragraph 1 and that are relevant for the implementation of this Protocol.

3. For the purposes of this Protocol, the authorities and institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall lend one another their good offices and act as though implementing their own legislation. The administrative assistance given by those authorities and institutions shall, as a rule, be free of charge. However, the Specialised Committee on the Circulation of Persons shall establish the nature of reimbursable expenses and the limits above which their reimbursement is due.

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

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

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

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

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

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

Committee on the Circulation of Persons.

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

ARTICLE SSC.63

Data processing

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

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

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

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

ARTICLE SSC.64

Exemptions

1. Any exemption from or reduction of taxes, stamp duty, notarial or registration fees provided for under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain in respect of certificates or documents required to be produced in application of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, shall be extended to similar certificates or documents required to be produced in application of the legislation of either the United Kingdom, in respect of Gibraltar, where the exemption is provided under the legislation of the Kingdom of Spain, or the Kingdom of Spain, where the exemption is provided under the legislation of the United Kingdom, in respect of Gibraltar, or of this Protocol.

2. All statements, documents and certificates of any kind whatsoever required to be produced in application of this Protocol shall be exempt from authentication by diplomatic or consular authorities.

ARTICLE SSC.65

Claims, declarations or appeals

Any claim, declaration or appeal which should have been submitted, in application of the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain within a specified period to an authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, shall be admissible if it is submitted within the same period to a corresponding authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain. In such a case, the authority, institution or tribunal receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or tribunal of the United Kingdom, in respect of

Gibraltar, or of the Kingdom of Spain, either directly or through the competent authorities concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution or tribunal of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be considered as the date of their submission to the competent authority, institution or tribunal.

ARTICLE SSC.66

Medical examinations

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

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

ARTICLE SSC.67

Collection of contributions and recovery of benefits

1. Collection of contributions due to an institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and recovery of benefits provided by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain but not due, may be effected in Gibraltar or the Kingdom of Spain in accordance with the procedures and with the guarantees and privileges applicable to the collection of contributions due to the corresponding institution of the latter

and the recovery of benefits provided by it but not due.

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

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

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

ARTICLE SSC.68

Rights of institutions

1. If a person receives benefits under the legislation of either the United Kingdom, in respect of Gibraltar, in respect of an injury resulting from events

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

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

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

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

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

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

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

(b) for the application of point (a):

(i) the person receiving benefits shall be deemed to be insured with the institution of the place of residence or stay; and

(ii) that institution shall be deemed to be the institution responsible for providing benefits;

(c) paragraphs 1 and 2 shall remain applicable in respect of any benefits not covered by the waiver agreement or a reimbursement which does not depend on the amount of benefits actually provided.

ARTICLE SSC.69

Implementation of legislation

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

TITLE V

FINAL PROVISIONS

ARTICLE SSC.70

Protection of individual rights

1. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure in accordance with their domestic legal orders that the provisions of this Protocol have the force of law, either directly or through domestic legislation giving effect to those provisions, so that legal or natural persons can invoke those provisions before domestic courts, tribunals and administrative authorities.

2. The United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall ensure the means for legal and natural persons to effectively protect their rights under this Protocol, such as the possibility to address complaints to administrative bodies or to bring legal action before a competent court or tribunal in an appropriate judicial procedure, in order to seek an adequate and timely remedy.

ARTICLE SSC.71

Transitional provision

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

2. Any period of insurance and, where appropriate, any period of employment or self-employment completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain prior to the date of application of this Protocol shall be taken into consideration for the determination of rights acquired under this Protocol.

3. Subject to paragraph 1, a right shall be acquired under this Protocol even if it relates to a contingency arising before its date of application.

4. Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of application of this Protocol, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.

5. The rights of a person to whom a pension was provided prior to the date of application of this Protocol in the United Kingdom, in respect of Gibraltar, or in the Kingdom of Spain may, at the request of the person concerned, be reviewed, taking into account this Protocol.

6. If a request referred to in paragraph 4 or 5 is submitted within two years from the date of application of this Protocol, the rights acquired in accordance with this Protocol shall have effect from that date, and the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, as the case may be, concerning the forfeiture or limitation of rights, may not be invoked against the persons concerned.

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

ARTICLE SSC.72

Amendments

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

ANNEX SSC-1

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

I. Advances of maintenance payments

KINGDOM OF SPAIN

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

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

II. Special childbirth and adoption allowances

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

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

ANNEX SSC-2

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

Part 1

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

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

Part 2

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

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

ANNEX SSC-3

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

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

KINGDOM OF SPAIN

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

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

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

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

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

KINGDOM OF SPAIN

Not applicable.

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

Not applicable.

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

No such agreements have been concluded.

ANNEX SSC-4

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

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

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

KINGDOM OF SPAIN

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

2. (a) Under point (c) of Article SSC.49(1) of this Protocol, the calculation of the theoretical Spanish benefit shall be carried out on the basis of the actual contributions of the person during the years immediately preceding payment of the last contribution to Spanish social security. Where, in the calculation of the basic amount for the pension, periods of insurance or residence under the legislation of the United Kingdom, in respect of Gibraltar, have to be taken into account, the contribution basis in the Kingdom of Spain which is closest in time to the reference periods shall be used for the aforementioned periods, taking into account the development of the retail price index.

(b) The amount of the pension obtained shall be increased by the amount of the increases and revaluations calculated for each subsequent year for pensions of the same nature.

3. Periods completed in Gibraltar which must be calculated in the special scheme for civil servants, the armed forces and the judicial administration, will be treated in the same way, for the purposes of Article SSC.49 of this Protocol, as the periods closest in time covered as a civil servant in the Kingdom of Spain.

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

UNITED KINGDOM, IN RESPECT OF GIBRALTAR

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

ANNEX SSC-5

IMPLEMENTING ANNEX
TO THE PROTOCOL ON SOCIAL SECURITY COORDINATION

TITLE I

GENERAL PROVISIONS

CHAPTER I

DEFINITIONS

ARTICLE SSCI.1

Definitions

1. For the purposes of this Annex, the definitions set out in Article SSC.1 shall apply.

2. In addition to the definitions referred to in paragraph 1,

(a) "access point" means an entity providing:

(i) an electronic contact point;

(ii) automatic routing based on the address; and

(iii) intelligent routing based on software that enables automatic checking and routing (for example, an artificial intelligence application) and/or human intervention;

(b) "document" means a set of data, irrespective of the medium used, structured in such a way that it can be exchanged electronically and which must be communicated in order to enable the operation of this Protocol and this Annex;

(c) "liaison body" means any body notified by the competent authority of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain for one or more of the branches of social security referred to in Article SSC.4 of this Protocol to respond to requests for information and assistance for the purposes of the application of this Protocol and this Annex and which has to fulfil the tasks assigned to it under Title IV of this Annex;

(d) "Structured Electronic Document" means any structured document in a format designed for the electronic exchange of information between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain;

(e) "transmission by electronic means" means the transmission of data using electronic equipment for the processing (including digital compression) of data and employing wires, radio transmission, optical technologies or any other electromagnetic means.

CHAPTER II

PROVISIONS CONCERNING COOPERATION AND EXCHANGES OF DATA

ARTICLE SSCI.2

Scope and rules for exchanges between institutions

1. For the purposes of this Annex, exchanges between authorities and institutions of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain and persons covered by this Protocol shall be based on the principles of public service, efficiency, active assistance, rapid delivery and accessibility, including e-accessibility, in particular for the disabled and the elderly.

2. The institutions shall without delay provide or exchange all data necessary for establishing and determining the rights and obligations of persons to whom this Protocol applies. Such data shall be transferred between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain directly by the institutions themselves or indirectly via the liaison bodies.

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

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

ARTICLE SSCI.3

Scope and rules for exchanges between the persons concerned and institutions

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

2. Persons to whom this Protocol applies shall be required to forward to the relevant institution the information, documents or supporting evidence necessary to establish their situation or that of their families, to establish or maintain their rights and obligations and to determine the applicable legislation and their obligations under it.

3. To the extent necessary for the application of this Protocol and this Annex, the relevant institutions shall forward the information and issue the documents to the persons concerned without delay and in all cases within the time limits specified under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned.

The relevant institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall notify the claimant residing or staying in the Kingdom of Spain or Gibraltar, respectively, of its decision directly or through the liaison body of the place of residence or stay. When refusing the benefits, it shall also indicate

the reasons for refusal, the remedies and periods allowed for appeals. A copy of this decision shall be sent to other involved institutions.

ARTICLE SSCI.4

Forms, documents and methods of exchanging data

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

2. For an interim period, the end date of which shall be agreed by the United Kingdom, in respect of Gibraltar, and by the Kingdom of Spain, all forms and documents issued by the competent institutions in the format used immediately before this Protocol comes into force shall be valid for the purpose of implementing this Protocol and, where appropriate, shall continue to be used for the exchange of information between competent institutions. All such forms and documents issued before and during that interim period shall be valid until their expiry or cancellation. The forms and documents valid in accordance with this paragraph include portable documents which certify a person's social security situation as required to give effect to this Protocol.

3. The transmission of data between the institutions or the liaison bodies may be carried out via the Electronic Exchange of Social Security Information. To the extent the forms and documents referred to in paragraph 1 are exchanged via the Electronic Exchange of Social Security Information, they shall respect the rules applicable to that system.

4. Where the transmission of data between institutions or the liaison bodies is carried out via the Electronic Exchange of Social Security Information, the United

Kingdom, in respect of Gibraltar, and the Kingdom of Spain will bear the related costs.

5. Where the transmission of data between institutions or the liaison bodies is not carried out via the Electronic Exchange of Social Security Information, the relevant institutions and liaison bodies shall use the arrangements appropriate to each case, and favour the use of electronic means as far as possible.

6. In their communications with the persons concerned, the relevant institutions shall use the arrangements appropriate to each case and favour the use of electronic means as far as possible.

ARTICLE SSCI.5

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

1. Documents issued by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain and showing the position of a person for the purposes of the application of this Protocol and this Annex, and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the Kingdom of Spain and of the United Kingdom, in respect of Gibraltar, respectively, for as long as they have not been withdrawn or declared to be invalid by the United Kingdom, in respect of Gibraltar, or by the Kingdom of Spain, whichever issued them.

2. Where there is doubt about the validity of a document or the accuracy of the facts on which the particulars contained therein are based, the relevant institution that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document. The issuing institution shall reconsider the grounds for issuing the document and, if necessary,

withdraw it.

3. Pursuant to paragraph 2, where there is doubt about the information provided by the persons concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the particulars contained therein are based, the institution of the place of stay or residence shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document.

ARTICLE SSCI.6

Provisional application of legislation and provisional granting of benefits

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

(a) the legislation of the place where the person actually pursues their employment or self-employment, if the employment or self-employment is pursued in only one place;

(b) the legislation of the place of residence if the person concerned pursues employment or self-employment in both the Kingdom of Spain and Gibraltar;

(c) in all other cases, the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, the application of whichever was first requested, if the person pursues an activity, or activities, in both Gibraltar and the Kingdom of Spain.

2. Where there is a difference of views between the institutions or authorities of

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

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

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

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

ARTICLE SSCI.7

Provisional calculation of benefits and contributions

1. Unless otherwise provided for in this Annex, where a person is eligible for a benefit, or is liable to pay a contribution in accordance with this Protocol, and the competent institution does not have all the information concerning the situation in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent, or in Gibraltar, where the Kingdom of Spain is competent, which is necessary to calculate definitively the amount of that benefit or contribution, that

institution shall, on request of the person concerned, award this benefit or calculate this contribution on a provisional basis, if such a calculation is possible on the basis of the information at the disposal of that institution.

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

CHAPTER III

OTHER GENERAL PROVISIONS FOR THE APPLICATION OF THIS PROTOCOL

ARTICLE SSCI.8

Other procedures between authorities and institutions

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

ARTICLE SSCI.9

Prevention of overlapping of benefits

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

ARTICLE SSCI.10

Aggregation of periods

1. For the purpose of applying Article SSC.7, the competent institution shall contact the institution to whose legislation the person concerned has been subject previously in order to determine all the periods completed under its legislation.

2. The respective periods of insurance, employment or self-employment completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain shall be added to those completed under the legislation the competent institution applies, insofar as necessary for the purpose of applying Article SSC.7, provided that these periods do not overlap.

3. Where a period of insurance which is completed in accordance with compulsory insurance under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain coincides with a period of insurance completed on the basis of voluntary insurance or continued optional insurance under the legislation of either the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, only the period completed on the basis of compulsory insurance shall be taken into account.

4. Where a period of insurance other than an equivalent period completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain coincides with an equivalent period on the basis of the legislation of either the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, only the period other than an equivalent period shall be taken into account.

5. Any period regarded as equivalent under the legislation of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain shall be taken into account only by the institution applying the legislation the person concerned was last compulsorily subject to before that period. In the event that the person

concerned was not compulsorily subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain before that period, the latter shall be taken into account by the institution applying the legislation the person concerned was compulsorily subject to for the first time after that period.

6. In the event that the time in which certain periods of insurance were completed under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain cannot be determined precisely, it shall be presumed that these periods do not overlap with periods of insurance completed under the legislation of the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar, respectively, and account shall be taken thereof, where advantageous to the person concerned, insofar as they can reasonably be taken into consideration.

ARTICLE SSCI.11

Rules for the conversion of periods

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

(a) the period to be used as the basis for the conversion shall be that communicated by the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain under whose legislation the period was completed;

(b) in the case of schemes where the periods are expressed in days the conversion from days to other units, and vice versa, as well as between different schemes based on days shall be calculated according to the following table:

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

(c) in the case of schemes where the periods are expressed in units other than days,

(i) three months or 13 weeks shall be equivalent to one quarter, and vice versa;

(ii) one year shall be equivalent to four quarters, 12 months or 52 weeks, and vice versa;

(iii) for the conversion of weeks into months, and vice versa, weeks and months shall be converted into days in accordance with the conversion rules for the schemes based on six days in the table in point (b);

(d) in the case of periods expressed in fractions, those figures shall be converted into the next smaller integer unit applying the rules laid down in points (b) and (c). Fractions of years shall be converted into months unless the scheme involved is based on quarters;

(e) if the conversion under this paragraph results in a fraction of a unit, the next higher integer unit shall be taken as the result of the conversion under this paragraph.

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

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

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

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

TITLE II

DETERMINATION OF THE LEGISLATION APPLICABLE

ARTICLE SSCI.12

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

1. For the purposes of the application of Article SSC.11(1) and (2) and Article SSC.12 of this Protocol, the words "which normally carries out its activities there" shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of Gibraltar or the Kingdom of Spain in which it is established, taking account of all criteria characterising the activities carried out by the undertaking in question. The relevant criteria must be suited to the specific characteristics of each employer and the real nature of the

activities carried out.

2. For the purposes of the application of Article SSC.11(3) and (4) of this Protocol, the words "who normally pursues an activity as a self-employed frontier worker" shall refer to a person established in Gibraltar or in the Kingdom of Spain who habitually carries out substantial activities in the territory of Gibraltar or of the Kingdom of Spain, respectively. In particular, such a person established in Gibraltar or in the Kingdom of Spain must have already pursued their activity for some time before the date on which they wish to take advantage of the provisions of that Article and, during any period of temporary activity in the Kingdom of Spain or in Gibraltar, respectively, must continue to fulfil, in Gibraltar or in the Kingdom of Spain, where they are established, the requirements for the pursuit of their activity in order to be able to pursue it on their return.

3. For the purposes of the application of Article SSC.11(3) and (4) of this Protocol, the criterion for determining whether the activity that a self-employed person goes to pursue in the Kingdom of Spain or Gibraltar is "similar" to the self-employed activity normally pursued shall be that of the actual nature of the activity, rather than of the designation of employed or self-employed activity that may be given to this activity by the Kingdom of Spain or Gibraltar, respectively.

4. For the purposes of the application of Article SSC.13(2) of this Protocol, a person who "normally pursues an activity as an employed person in the Kingdom of Spain and Gibraltar" shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in the Kingdom of Spain and Gibraltar.

5. For the purposes of Article SSC.13(2) of this Protocol, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in the Kingdom of Spain and Gibraltar shall be subject to the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain, depending on

where the home base is located.

6. Marginal activities shall be disregarded for the purpose of determining the applicable legislation under Article SSC.13 of this Protocol. Article SSCI.15 of this Annex shall apply to all cases under this Article.

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

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

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

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

(a) in the case of an employed activity, the working time or the remuneration; and

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

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

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

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

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

ARTICLE SSCI.13

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

1. Unless otherwise provided for by Article SSCI.14 of this Annex, where a

person pursues their activity in Gibraltar, where the Kingdom of Spain is competent under Title II of this Protocol, or in the Kingdom of Spain, where the United Kingdom, in respect of Gibraltar, is competent under Title II of this Protocol, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whose legislation is applicable, thereof, whenever possible in advance. That institution shall issue the attestation referred to in Article SSCI.15(2) of this Annex to the person concerned and shall without delay make information concerning the legislation applicable to that person, pursuant to point (b) of Article SSC.10(3) or Article SSC.11 or SSC.12 of this Protocol, available to the institution designated by the competent authority of the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, where the activity is pursued.

2. An employer within the meaning of Article SSC.10(4) of this Protocol whose registered office or place of business is in Gibraltar and who has an employee on board a vessel flying the flag of the Kingdom of Spain, or whose registered office or place of business is in the Kingdom of Spain and who has an employee on board a vessel flying the flag of the United Kingdom, in respect of Gibraltar, shall inform the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, respectively, whose legislation is applicable, thereof, whenever possible in advance. That institution shall, without delay, make information concerning the legislation applicable to the person concerned, pursuant to Article SSC.10(4) of this Protocol, available to the institution designated by the competent authority of the Kingdom of Spain or the United Kingdom, in respect of Gibraltar, whose flag the vessel on which the employee is to perform the activity is flying.

ARTICLE SSCI.14

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

1. A person who pursues activities in the Kingdom of Spain and Gibraltar shall

inform the institution designated by the competent authority of the place of residence thereof.

2. The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article SSC.13 of this Protocol and Article SSCI.12 of this Annex. That initial determination shall be provisional. The institution shall inform the designated institution of the other place in which an activity is pursued of its provisional determination.

3. The provisional determination of the applicable legislation, as provided for in paragraph 2, shall become definitive within two months of the institution designated by the competent authorities of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whichever is concerned, being informed of it, in accordance with paragraph 2, unless the legislation has already been definitively determined on the basis of paragraph 4, or the institution concerned informs the institution designated by the competent authority of the place of residence by the end of this two-month period that it cannot yet accept the determination or that it takes a different view on this.

4. Where uncertainty about the determination of the applicable legislation requires contacts between the institutions or authorities of the United Kingdom, in respect of Gibraltar, and of the Kingdom of Spain, at the request of one or more of the institutions designated by the competent authorities of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or of the competent authorities themselves, the legislation applicable to the person concerned shall be determined by common agreement, having regard to Article SSC.13 of this Protocol and the relevant provisions of Article SSCI.12 of this Annex.

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

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

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

ARTICLE SSCI.15

Provision of information to persons concerned and employers

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

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

ARTICLE SSCI.16

Cooperation between institutions

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

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

TITLE III

SPECIAL PROVISIONS CONCERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER I

SICKNESS, MATERNITY AND EQUIVALENT PATERNITY BENEFITS

ARTICLE SSCI.17

General implementing provisions

1. The competent authorities or institutions shall ensure that any necessary information is made available to insured persons regarding the procedures and conditions for the granting of benefits in kind where such benefits are received in the place of residence.

2. Notwithstanding point (a) of Article SSC.6 of this Protocol, the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain may become responsible for the cost of benefits in accordance with Article SSC.19 of this Protocol only if either the insured person has made a claim for a pension under the legislation of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain or, in accordance with Articles SSC.20 to SSC.24 of this Protocol, they receive a pension under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain.

ARTICLE SSCI.18

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

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

ARTICLE SSCI.19

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

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

2. The document referred to in paragraph 1 shall remain valid until the competent institution informs the institution of the place of residence of its cancellation.

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

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

ARTICLE SSCI.20

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

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

2. The benefits in kind provided by the institution of the place of stay on behalf of the competent institution under Article SSC.17(2) of this Protocol shall give rise to full reimbursement.

ARTICLE SSCI.21

Application of Article SSC.22 of this Protocol

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

ARTICLE SSCI.22

Contributions by pensioners

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

CHAPTER II

BENEFITS IN RESPECT OF ACCIDENTS AT WORK
AND OCCUPATIONAL DISEASES

ARTICLE SSCI.23

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

1. For the purposes of the application of Article SSC.28 of this Protocol, the procedures laid down in Articles SSCI.25 and SSCI. 26 of this Annex shall apply *mutatis mutandis*.

2. When providing special benefits in kind in connection with accidents at work and occupational diseases under the legislation of the place of residence, the institution of that place of residence shall without delay inform the competent institution.

CHAPTER III

DEATH GRANTS

ARTICLE SSCI.24

Claim for death grants

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

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

CHAPTER IV

INVALIDITY BENEFITS AND OLD-AGE AND SURVIVORS' PENSIONS

ARTICLE SSCI.25

Additional provisions for the calculation of benefit

1. For the purpose of calculating the theoretical amount and the actual amount of the benefit in accordance with point (b) of Article SSC.45(1) of this Protocol, the rules provided for in Article SSCI.10(3), (4), (5) and (6) of this Annex shall apply.

2. Where periods of voluntary or optional continued insurance have not been taken into account under Article SSCI.10(3) of this Annex, the institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, under whose legislation those periods were completed shall calculate the amount corresponding

to those periods under the legislation it applies. The actual amount of the benefit, calculated in accordance with point (b) of Article SSC.45(1) of this Protocol shall be increased by the amount corresponding to periods of voluntary or optional continued insurance.

3. The institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain shall calculate, under the legislation it applies, the amount due corresponding to periods of voluntary or optional continued insurance which, under point (c) of Article SSC.46(3) of this Protocol, shall not be subject to the rules relating to withdrawal, reduction or suspension of either the Kingdom of Spain or of the United Kingdom, in respect of Gibraltar.

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

ARTICLE SSCI.26

Taking into account child-raising periods

1. For the purposes of this Article, "child-raising period" refers to any period which is credited under the pension legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively.

2. Where, under the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, which is competent under Title II of this Protocol, no child-raising period is taken into account, the institution of either the United Kingdom, in respect of Gibraltar, or the Kingdom of Spain whose legislation,

according to Title II of this Protocol, was applicable to the person concerned at the date when, under that legislation, the child-raising period started to be taken into account for the child concerned, shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory.

3. Paragraph 2 shall not apply if the person concerned is, or becomes, subject to the legislation of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain due to the pursuit of an employed or self-employed activity.

CHAPTER V

UNEMPLOYMENT BENEFITS

ARTICLE SSCI.27

Aggregation of periods and calculation of benefits

1. Article SSCI.10 of this Annex shall apply *mutatis mutandis* to Article SSC.54 of this Protocol. Without prejudice to the underlying obligations of the institutions involved, the person concerned may submit to the competent institution a document issued by the institution of the place of residence to whose legislation they were subject to in respect of their last activity as an employed or self-employed person specifying the periods completed under that legislation.

2. For the purpose of applying Article SSC.55 of this Protocol, the competent institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain, whose legislation provides that the calculation of benefits varies with the number of members of the family shall also take into account the members of the family of the person concerned who are residing in the same household as if they resided in the place of the competent institution. This provision shall not apply

where, in the place of residence of members of the family, another person is entitled to unemployment benefits calculated on the basis of the number of members of the family.

ARTICLE SSCI.28

Unemployed persons who resided outside the place of competence

1. The competent institution of the place of last employment shall inform wholly unemployed persons of their rights and obligations and shall provide them with documents which shall include all necessary information related to the receipt of unemployment benefits in accordance with its legislation in the place of residence.

2. The relevant institutions of the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall provide each other with the necessary information to support the job-seeking activities of unemployed persons and to inform them about the applicable control procedures and conditions, and to which employment service they are to make themselves available. The institution of the place of residence shall, upon request of the competent institution, immediately inform the competent institution of any circumstances of which it is aware and which are likely to affect the entitlement to benefits, in particular, if the wholly unemployed persons have taken up employment or have become self-employed in the place of residence.

3. Where, in accordance with Article SSC.56 of this Protocol, an unemployed person decides to make themself also available to the employment services of the place of residence, by registering there as a person seeking work, they shall inform the competent institution and the employment services providing the benefits.

4. Where requested by the employment services of the place of residence, the competent employment services shall send the relevant information concerning the unemployed person's registration and their search for employment. The

employment services of the place of residence shall also, upon request of the competent institution, immediately inform the competent institution of any circumstances of which it is aware and which are likely to affect the entitlement to benefits, in particular, if the wholly unemployed person has taken up employment or has become self-employed in the place of residence.

ARTICLE SSCI.29

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

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

CHAPTER VI

FAMILY BENEFITS

ARTICLE SSCI.30

Priority rules in the event of overlapping

For the purpose of applying point (b)(i) and (ii) of Article SSC.59(1) of this Protocol, where the order of priority cannot be established on the basis of the children's place of residence, the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain shall calculate the amount of benefits including the children not resident within its own territory. In the event of applying point (b)(i) of Article

SSC.59(1) of this Protocol, the institution that applies the legislation which provides for the highest level of benefits shall pay the full amount of such benefits and shall be reimbursed half this sum by the other institution up to the limit of the amount provided for in the legislation applied by the latter institution.

ARTICLE SSCI.31

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

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

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

ARTICLE SSCI.32

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

1. The application for family benefits shall be addressed to the competent institution. For the purpose of applying Articles SSC.58 and SSC.59 of this

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

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

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

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

decision within two months.

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

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

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

TITLE IV

FINANCIAL PROVISIONS

CHAPTER I

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

ARTICLE SSCI.33

Principles

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

ARTICLE SSCI.34

Procedure for reimbursement between institutions

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

CHAPTER II

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

ARTICLE SSCI.35

Common provisions

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

TITLE V

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

ARTICLE SSCI.36

Medical examination and administrative checks

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

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

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

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

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

Paragraph 2 shall also apply in this case.

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

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

ARTICLE SSCI.37

Information

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

ARTICLE SSCI.38

Currency conversion

1. For the purpose of applying this Protocol and this Annex, the exchange rate between the currencies applied in the United Kingdom, in respect of Gibraltar, and in the Kingdom of Spain, respectively, shall be the reference rate published by the European Central Bank.

2. For the purpose of applying this Protocol and this Annex, the rate of conversion shall be understood as a daily conversion rate published by the European Central Bank.

3. If not otherwise stated in this Article, the rate of conversion shall be the rate published on the day when the operation is performed.

4. An institution of the United Kingdom, in respect of Gibraltar, or of the Kingdom of Spain which, for the purposes of the establishment of an entitlement, and for the first calculation of the benefit, has to convert an amount shall use:

(a) when, according to national legislation or this Protocol, an institution takes into account amounts, such as earnings or benefits, during a certain period before the date for which the benefit is calculated, the rate of conversion published on the last day of that period;

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

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

situation of the person concerned.

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

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

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

(b) in the case of a request for recovery, the working day immediately preceding the day on which the applicant party sent the first request for recovery.

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

ARTICLE SSCI.39

Transitional provisions relating to pensions

1. Where the contingency arises before the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain and the claim for pension has not been awarded before that date, such claim shall give rise to a

double award, inasmuch as benefits must be granted, pursuant to such contingency, for a period prior to that date:

(a) for the period prior to the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain in accordance with agreements in force between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain;

(b) for the period commencing on the date of entry into force of this Protocol in the territory of Gibraltar or of the Kingdom of Spain in accordance with this Protocol.

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

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

PROTOCOL
ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

ARTICLE PCUST.1

Definitions

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

(a) "applicant authority" means an administrative authority requesting administrative assistance under this Protocol and notified by a Party as competent for that purpose;

(b) "customs legislation" means any laws or regulations applicable in the territory of either Party governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;

(c) "information" means any data, document, image, report, communication or authenticated copy, in any format, including electronic, whether or not processed or analysed;

(d) "operation in breach of customs legislation" means any violation or attempted violation of customs legislation;

(e) "requested authority" means an administrative authority receiving a request for assistance under this Protocol and notified by a Party as competent for that purpose;

(f) "person" means any natural or legal person; and

(g) "personal data" means any information relating to an identified or identifiable natural person.

ARTICLE PCUST.2

Scope

1. The Parties shall assist each other in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.

2. The provisions on assistance in customs matters in this Protocol apply to any administrative authority of either Party which is competent for the application of this Protocol. That assistance shall neither prejudice the provisions governing mutual assistance in criminal matters nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

3. Assistance in the recovery of duties, taxes or fines is covered by the Protocol on administrative cooperation and combating fraud in the field of value added tax and excise duty and on mutual assistance for the recovery of claims relating to taxes and duties.

ARTICLE PCUST.3

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide the applicant authority with all relevant information which may enable the applicant authority to ensure that customs legislation is correctly applied, including information related to activities noted or planned which are or could be operations

in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall in particular inform it whether:

(a) goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods; or

(b) goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

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

(a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of customs legislation;

(c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of customs legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and

(e) premises suspected by the applicant authority of being used to commit breaches of customs legislation.

ARTICLE PCUST.4

Spontaneous assistance

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

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

(b) persons in respect of whom there are reasonable grounds for believing they are or have been involved in operations in breach of customs legislation;

(c) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation; and

(d) new means or methods employed in carrying out operations in breach of customs legislation.

ARTICLE PCUST.5

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing either in print or

electronic format. They shall be accompanied by the documents necessary to enable compliance with the request. In case of urgency, or as the applicant authority and the requested authority may otherwise agree the requested authority may accept oral requests but such oral requests shall be confirmed by the applicant authority in writing promptly.

2. Requests pursuant to paragraph 1 shall include the following information:

(a) the applicant authority and requesting official;

(b) the information or type of assistance requested;

(c) the object of and the reason for the request;

(d) the laws and regulations and other legal elements involved;

(e) indications as exact and comprehensive as possible on the goods or persons who are the target of the investigations;

(f) a summary of the relevant facts and of the enquiries already carried out; and

(g) any additional available details to enable the requested authority to comply with the request.

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

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

ARTICLE PCUST.6

Execution of requests

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

2. Requests for assistance shall be executed in accordance with the laws and regulations of the requested Party.

ARTICLE PCUST.7

Form in which information is to be communicated

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

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

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

ARTICLE PCUST.8

Presence of officials of one Party in the territory of another

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

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

ARTICLE PCUST.9

Delivery and notification

1. At the request of the applicant authority, the requested authority shall take all necessary measures in accordance with its applicable laws and regulations in order to deliver any documents or to notify any decisions of the applicant authority that fall within the scope of this Protocol to an addressee residing or established in the territory of the requested authority.

2. Such requests for the delivery of documents or the notification of decisions shall be made in writing in an official language of the requested authority or in a

language acceptable to that authority, English always being an acceptable language.

ARTICLE PCUST.10

Automatic exchange of information

1. The Parties may, by mutual arrangement in accordance with Article PCUST.15 of this Protocol:

(a) exchange any information covered by this Protocol on an automatic basis; and

(b) exchange specific information in advance of the arrival of consignments in the territory of the other Party.

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

ARTICLE PCUST.11

Exceptions to the obligation to provide assistance

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

(a) be likely to prejudice the sovereignty of the United Kingdom, in respect of Gibraltar, or that of a Member State which has been requested to provide assistance under this Protocol;

(b) be likely to prejudice public policy, security or other essential interests in particular in the cases referred to in paragraph 5 of Article PCUST.12 of this Protocol; or

(c) violate an industrial, commercial or professional secret.

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

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

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

ARTICLE PCUST.12

Information exchange and confidentiality

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

2. The use of information obtained under this Protocol in administrative or judicial proceedings instituted in respect of operations in breach of customs legislation is considered to be for the purposes of this Protocol. Therefore, the Parties may use information obtained and documents consulted in accordance with

the provisions of this Protocol as evidence in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts or tribunals. The requested authority may subject the supply of information or the granting of access to documents to the condition that it is notified of such use.

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

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

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

ARTICLE PCUST.13

Experts and witnesses

The requested authority may authorise its officials to appear, within the limitations of the authorisation granted, as experts or witnesses in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or confidential or certified true copies thereof, as may be

needed for the proceedings. The request for appearance shall indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE PCUST.14

Assistance expenses

1. Subject to paragraphs 2 and 3, the Parties shall waive any claims on each other for reimbursements of expenses incurred in the execution of this Protocol.

2. Expenses and allowances paid to experts, witnesses, interpreters and translators, other than public service employees, shall be borne as appropriate by the requesting Party.

3. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult to determine the terms and conditions under which the request is to be executed, as well as the manner in which the costs are to be borne.

ARTICLE PCUST.15

Implementation

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

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

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

ARTICLE PCUST.16

Other agreements

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

ARTICLE PCUST.17

Consultations

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

ARTICLE PCUST.18

Future developments

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

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

TITLE I

GENERAL PROVISIONS

ARTICLE PVAT.1

Objective

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

ARTICLE PVAT.2

Scope

This Protocol lays down rules and procedures for cooperation:

(a) to exchange any information that may help to effect a correct assessment of VAT, excise duty and transaction tax, as applicable, monitor the correct application of such taxes and to combat fraud related to such taxes;

(b) for the recovery of:

(i) claims relating to VAT, transaction tax, customs duties and excise duties, levied by or on behalf of a Party or its territorial or administrative subdivisions, excluding the local authorities;

(ii) administrative penalties, fines, fees and surcharges relating to the claims referred to in point (i) imposed by the administrative authorities that are competent to levy the taxes or duties concerned or carry out administrative enquiries with regard to them, or confirmed by administrative or judicial bodies at the request of those administrative authorities; and

(iii) interest and costs relating to such claims.

ARTICLE PVAT.3

Definitions

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

(a) "administrative enquiry" means all the controls, checks and other action taken by any of the Parties in the performance of their duties with a view to ensuring the proper application of the VAT, transaction tax or excise duty legislation;

(b) "applicant authority" means the competent authority requesting assistance for recovery;

(c) "by electronic means" means using electronic equipment for the processing (including digital compression) and storage of data, and employing wires,

radio transmission, optical technologies or other electromagnetic means;

(d) "competent authority" means the authority notified pursuant to Article PVAT.4(1);

(e) "customs duties" means the duty payable on goods entering or leaving the customs territory of each Party in accordance with the rules set out in their customs legislation;

(f) "excise duties" means those duties and charges defined as such under the domestic legislation of the Party in which the requesting authority is located;

(g) "person" means a natural person, a legal person, any association of persons which is not a legal person but which is recognised in a Party as having the capacity to perform legal acts and any other legal arrangement of whatever nature and form, regardless of whether it has legal personality;

(h) "requested authority" means the competent authority receiving a request for assistance;

(i) "requesting authority" means the competent authority requesting assistance for VAT, transaction tax or excise duties;

(j) "spontaneous exchange" means the non-systematic communication, at any moment and without prior request, of information to the United Kingdom, in respect of Gibraltar, or any of the Union Member States;

(k) "third country" means a country that is neither a Union Member State nor the United Kingdom, in respect of Gibraltar;

(l) "transaction tax" means the tax pursuant to the Relationship with the European Union Act 2026 of Gibraltar; and

(m) "VAT" means value added tax pursuant to Council Directive 2006/112/EC[1] for the Union.

ARTICLE PVAT.4

Organisation

1. Each Party shall notify or designate, as appropriate, a competent authority responsible for the application of this Protocol and shall inform the other Party thereof.

2. Each Party shall notify or designate, as appropriate:

(a) a single authority to act as requesting or requested authority for the administrative cooperation on VAT and transaction tax, as applicable, under Title II of this Protocol;

(b) a single authority to act as requesting or requested authority for the administrative cooperation on excise duties under Title II of this Protocol;

(c) a single authority to act as applicant or requested authority for the administrative cooperation under Title III of this Protocol.

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

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

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

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

ARTICLE PVAT.5

Use of languages

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

ARTICLE PVAT.6

Confidentiality

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

2. Any information received under this Protocol shall enjoy the protection granted to similar information under the relevant laws and regulation of the receiving authority.

3. Such information may be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the application of VAT, excise duty, transaction tax or customs duties legislation, including recovery or precautionary measures with regard to claims referred to in point (b) of Article PVAT.2.

4. Further use shall require prior written consent of the authority supplying the information.

5. Reports, statements and any other documents, or certified true copies or extracts thereof, obtained by a Party under the assistance provided by this Protocol may be invoked as evidence in that Party on the same basis as similar documents provided by another authority of that Party.

TITLE II

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

CHAPTER 1

EXCHANGE OF INFORMATION ON REQUEST

ARTICLE PVAT.7

Exchange of information and administrative enquiries

1. At the request of the requesting authority, the requested authority shall communicate all relevant information referred to in point (a) of Article PVAT.2, including any information relating to a specific case or cases.

2. For the purpose of forwarding the information referred to in paragraph 1, the requested authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information.

3. The requested authority may consult with the requesting authority on the need for specific enquiries and shall communicate the information obtained, including reports, statements, certified copies and any other document.

ARTICLE PVAT.8

Assistance on excise duty requests

At the request of the requesting authority, the requested authority shall take the

necessary steps in accordance with its applicable laws and regulations to ensure special surveillance of and to provide the requesting authority with information on:

(a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of excise duty legislation;

(b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of excise duty legislation;

(c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of excise duty legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of excise duty legislation;

(e) premises suspected by the requesting authority of being used to commit breaches of excise duty legislation;

(f) movement of goods; and

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

ARTICLE PVAT.9

Time limit for providing information

1. The requested authority shall provide the information referred to in Article PVAT.7 as quickly as possible and no later than 90 days following the date of receipt of the request. However, where the requested authority is already in possession of that information, the time limit shall be reduced to a maximum period of 30 days.

2. Where the requested authority is unable to meet the time limits referred to in paragraph 1, it shall inform the requesting authority in writing of the reasons and indicate when a reply may be expected.

CHAPTER 2

EXCHANGE OF INFORMATION WITHOUT PRIOR REQUEST

ARTICLE PVAT.10

Spontaneous exchange of information

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

(a) taxation is deemed to take place in the other Party;

(b) a breach of VAT, excise duty or transaction tax legislation has been committed or is likely to have been committed in the other Party; or

(c) there is a risk of tax loss in the other Party.

CHAPTER 3

OTHER FORMS OF COOPERATION

ARTICLE PVAT.11

Administrative notification

1. At the request of the requesting authority, the requested authority shall take measures to deliver or notify documents or decisions falling within the scope of this Protocol to addressees in its territory. Requests shall be made in writing, English always being acceptable.

2. Requests shall include the name and address of the addressee, the subject of the decision or instrument and any other relevant information.

3. The requested authority shall inform the requesting authority immediately of its response to the request for notification and notify it, in particular, of the date of notification of the decision or instrument to the addressee.

ARTICLE PVAT.12

Presence in administrative offices and participation in administrative enquiries

1. By agreement between the requesting authority and the requested authority, the requested authority may allow officials of the requesting authority to be present in its offices, or any other place where those authorities carry out their duties or during administrative enquiries carried out in its territory, with a view to exchanging the information referred to in point (a) of Article PVAT.2. Such administrative enquiries shall be carried out exclusively by the officials of the requested authority. The officials of the requesting authority shall not exercise the

powers of inspection conferred on officials of the requested authority.

2. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may take part in the administrative enquiries carried out in the territory of the Party of the requested authority with a view to collecting and exchanging the information referred to in point (a) of Article PVAT.2. Such administrative enquiries shall be carried out jointly by the officials of the requesting and requested authorities and shall be conducted under the direction and according to the legislation of the Party of the requested authority.

CHAPTER 4

GENERAL PROVISIONS

ARTICLE PVAT.13

Conditions governing the exchange of information

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

(a) the number and nature of the requests for information or administrative notification made by the requesting authority do not impose a disproportionate administrative burden; and

(b) the requesting authority has exhausted the usual sources of information available.

2. This Protocol shall impose no obligation to have enquiries carried out or to provide information on a particular case if the laws or administrative practices of

the Party which would have to supply the information do not authorise that Party to carry out those enquiries or collect or use that information for its own purposes.

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

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

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

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

ARTICLE PVAT.14

Forms of communication

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

(a) the requesting authority and the requesting official;

(b) the type of assistance requested;

(c) the object of and the reason for the request;

(d) the legal elements involved;

(e) indications as exact and comprehensive as possible of the goods, persons or transactions which are the target of the investigations;

(f) a summary of the relevant facts and of the enquiries already carried out; and

(g) any additional details available to enable the requested authority to comply with the request.

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

TITLE III

RECOVERY ASSISTANCE

CHAPTER 1

EXCHANGE OF INFORMATION

ARTICLE PVAT.15

Request for information

1. At the request of the applicant authority, the requested authority shall provide any information for the identification of debtors or assets located in its territory and necessary to recover the claims referred to in this Protocol.

2. The requested authority may carry out or arrange the necessary administrative enquiries as if acting in its own recovery cases.

3. Assistance may be refused only where:

(a) the requested authority could not obtain the same information for its own purposes;

(b) disclosure would reveal a professional or commercial secret; or

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

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

5. Where assistance is refused, the requested authority shall inform the applicant

authority in writing and give reasons.

ARTICLE PVAT.16

Presence in administrative offices and participation in administrative enquiries

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

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

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

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

CHAPTER 2

ASSISTANCE FOR THE NOTIFICATION OF DOCUMENTS

ARTICLE PVAT.17

Request for notification of certain documents relating to claims

1. At the request of the applicant authority, the requested authority shall notify

the addressee of any instruments, decisions or documents falling within the scope of this Protocol, including those of a judicial nature, relating to VAT, excise duty, transaction tax, customs duties or their recovery.

Requests for notification shall include:

(a) the applicant authority and contact details of the office responsible;

(b) the name, address and any other data relevant to the identification of the addressee, insofar as available;

(c) the nature and subject of the document to be notified; and

(d) a short description of the claim concerned, including the amount if applicable.

2. Requests shall be made in writing, including electronically.

3. The requested authority shall notify the document in accordance with its domestic law. Once notification has been executed, the requested authority shall inform the applicant authority of the date and manner of notification.

4. If notification cannot be executed, the requested authority shall promptly inform the applicant authority, indicating the reasons.

CHAPTER 3

RECOVERY OR PRECAUTIONARY MEASURES

ARTICLE PVAT.18

Request for recovery

1. At the request of the applicant authority, the requested authority shall recover claims which are the subject of an instrument permitting enforcement in the territory of the Party of the applicant authority.

2. As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority, it shall inform the requested authority.

ARTICLE PVAT.19

Conditions governing a request for recovery

1. The applicant authority may not make a request for recovery if and for so long as the claim or the instrument permitting its enforcement are contested in the territory of the applicant authority.

2. Before making a request for recovery, the applicant authority shall first apply appropriate recovery procedures available in its own territory, except in the following situations:

(a) where it is obvious that there are no assets for recovery in the territory of that Party or that such procedures will not result in the payment of a substantial amount, and the applicant authority has specific information indicating that the person concerned has assets in the territory of the Party of the requested authority; or

(b) where recourse to such procedures in the territory of the Party of the applicant authority would give rise to disproportionate difficulty.

ARTICLE PVAT.20

Execution of the request for recovery

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

2. The requested authority shall keep the applicant authority informed of the recovery steps taken and of the amounts recovered.

3. The requested authority may grant payment facilities or instalments in accordance with its law and may charge interest or recovery costs, which it may retain.

4. Amounts recovered shall be transferred to the applicant authority promptly after deduction of any costs or charges which the requested authority could not recover in accordance with Article PVAT.26(2).

ARTICLE PVAT.21

Disputed claims and enforcement measures

1. Any dispute about the validity or amount of the claim shall be decided by the authorities of the Party of the applicant authority. Disputes about recovery actions taken in the territory of the Party of the requested authority shall be decided by its

own competent bodies.

2. If the claim or enforcement instrument is contested, the requested authority shall suspend recovery for the disputed part until the decision becomes final, but the applicant authority may request that recovery measures be continued or that precautionary measures be taken to secure the debt.

3. When recovery continues for a contested claim at the request of the applicant authority and the claim is later annulled or reduced, the applicant authority shall reimburse any amounts unduly recovered and any related costs or compensation.

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

ARTICLE PVAT.22

Amendment or withdrawal of the request for recovery assistance

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

ARTICLE PVAT.23

Request for precautionary measures

1. At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national law and in accordance with its

administrative practices, to ensure recovery where a claim or the instrument permitting enforcement in the territory of the applicant authority is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the territory of the applicant authority, in so far as precautionary measures are possible in a similar situation under the law and administrative practices of the territory of the applicant authority.

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

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

ARTICLE PVAT.24

Limits to the requested authority's obligation

1. The requested authority may refuse or limit assistance where:

(a) recovery would cause serious economic or social hardship in its territory;

(b) the administrative effort or cost would be clearly disproportionate to the amount to be recovered; or

(c) the claim is more than five years old, counting from its due date in the territory of the Party of the applicant authority.

2. In exceptional cases, assistance may still be provided up to 10 years after the

due date, if recovery remains legally possible in the territory of the Party of the applicant authority.

3. No assistance shall be requested for claims below GBP 5 000.

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

ARTICLE PVAT.25

Questions on limitation

1. Time limits for establishing and recovering claims shall be determined by the law of the Party of the applicant authority.

2. Any request for recovery or precautionary measures pursuant to this Protocol shall have the effect of suspending the period of limitation until the requested authority has executed the request.

ARTICLE PVAT.26

Costs

1. Each Party shall bear the costs it incurs in recovery assistance and shall not seek reimbursement from the other Party.

2. The requested authority may recover its costs directly from the debtor in accordance with its law. The applicant authority shall reimburse the requested authority for costs or losses resulting from unfounded requests.

3. In exceptional cases involving unusually high costs, the authorities may agree specific reimbursement arrangements.

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

ARTICLE PTOB.1

Information sharing

1. Without prejudice to other obligations by which they may be bound, the Union and the United Kingdom, in respect of Gibraltar, shall exchange regularly information concerning the amounts of tobacco products imported, sold or exported. This information shall include details relating to each of the following:

(a) the amount of raw or unmanufactured tobacco and tobacco products that have been imported into, sold in or exported from Gibraltar;

(b) for raw or unmanufactured tobacco: details of imports, specifying variety, origin, exporter, destination, importer, and weight in kilos; and

(c) for tobacco products,

(i) distinction between the different types of tobacco products, such as cigarettes, cigars, cigarillos, roll-your-own tobacco, pipe tobacco, waterpipe tobacco, oral tobacco, nasal tobacco, chewing tobacco and novel tobacco products, including heated tobacco products;

(ii) the volumes of the different types of tobacco products per brand and economic operator;

(iii) the trend in retail prices for each tobacco product type, indicating the

weighted average price for the amount sold, minimum price and maximum price;

(iv) as regards wholesale or retail, for each tobacco product type, distinction between direct retail sales and duty-free sales to leisure cruises or other forms of transport.

2. Additionally, the Union and the United Kingdom, in respect of Gibraltar, shall share specific information referring to the efforts made to prevent and combat fraud and smuggling in Gibraltar, including the legislation adopted for this purpose, the administrative and judicial measures applied, the human and material resources employed to prevent and combat fraud and smuggling, and the quantity and value of the seizures made. Such information shall also extend to the efforts, in terms of combatting illicit trade and fraud, of applying the content and rules regarding traceability.

3. The information referred to in this Article shall be provided quarterly and will be exchanged within the first two months of the quarter following the quarter being reported.

ARTICLE PTOB.2

Cooperation and enforcement

1. The competent authorities within the Union and of the United Kingdom, in respect of Gibraltar, shall cooperate in identifying persons domiciled in their respective territories that, in proceedings undertaken in relation to smuggling of products originating in Gibraltar or destined for Gibraltar, may be found directly or indirectly responsible for such acts. The competent authorities shall also cooperate in investigations to determine the facts and attribution of responsibility.

2. The cooperation referred to in paragraph 1 shall be reciprocal and shall

include:

(a) assistance in serving the documents indicated by the requesting authorities, issued by the requesting authorities, to all the addressees thereof;

(b) provision, at the request of the requesting authorities, of all individual information concerning assets that is relevant to taxation, for the purpose of collecting debts owed to the authorities;

(c) collection, at the request of the requesting authorities, of debts owed to the authorities, as documented in an instrument that enables enforcement and authorises collection actions;

(d) at the request of the authorities, based on the instrument referred to in point (c), adoption of appropriate measures to ensure collection of the debts owed to the authorities.

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

(a) withholding any payments that the requested authority is due to make to the alleged debtor;

(b) measures providing for the freezing of assets of an alleged debtor;

(c) mechanisms or other measures prohibiting disposal, encumbrance or use of assets or exercise of rights having a monetary value;

(d) any other measure provided for by law.

4. Notwithstanding the implementation of the measures set out in this Protocol, should evidence emerge that tobacco products are being smuggled into Gibraltar or the surrounding area from any part of Spain in significant quantities, the competent

authorities within the Union and of the United Kingdom, in respect of Gibraltar, shall take effective action to prevent such illicit activity.

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

ARTICLE PTOB.3

Tobacco traceability

1. The United Kingdom, in respect of Gibraltar, shall apply a tobacco traceability system which is equivalent to the Union system and covers:

(a) cigarettes and roll-your-own tobacco from the date of entry into force of this Agreement,

(b) all other tobacco products within a period of 24 months from the date of entry into force of this Agreement.

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

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

ARTICLE PTOB.4

Price differential

The price differential is laid down in Annex 24.

ARTICLE PTOB.5

Additional measures

1. The United Kingdom, in respect of Gibraltar, shall establish the requirements with respect to picture warnings to be used on tobacco products that are equivalent to those applicable in the Union market.

2. The United Kingdom, in respect of Gibraltar, shall prohibit the placing on the market of tobacco for oral use.

3. The United Kingdom, in respect of Gibraltar, shall prohibit cross-border distance sales of tobacco products to consumers.

4. By the date of entry into force of this Agreement, the competent authorities of the United Kingdom, in respect of Gibraltar, shall have in place a system that ensures the destruction of tobacco products confiscated in operations against illicit trade and smuggling of tobacco products and of tobacco products that do not comply with the requirements of point (a) of Article 258 of this Agreement. Administrative arrangements between the United Kingdom, in respect of Gibraltar, and the Kingdom of Spain may set out the practical modalities for cooperation under this paragraph.

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